Calendar No. 847

84TH CONGRESS, 1st Session } SENATE { REPORT No. 839

AMENDING THE PUBLIC HEALTH SERVICE ACT TO AUTHORIZE GRANTS TO STATES FOR THE PURPOSE OF ASSISTING STATES TO PROVIDE CHILDREN AND EXPECTANT MOTHERS AN OPPORTUNITY FOR VACCINATION AGAINST POLIOMYELITIS

JULY 13, 1955.—Ordered to be printed

Mr. HILL, from the Committee on Labor and Public Welfare, submitted the following

REPORT

[To accompany S. 2501]

The Committee on Labor and Public Welfare, to whom was referred the bill (S. 2501) entitled "A bill to amend the Public Health Service Act to authorize grants to States for the purpose of assisting States to provide children and expectant mothers an opportunity for vaccination against poliomyelitis," having considered the same, now reports favorably thereon and recommends that it do pass.

INTRODUCTION

The Committee on Labor and Public Welfare had referred to it a number of bills relating to poliomyelitis vaccine. After public hearings and a series of executive sessions, the committee decided that the objective of protecting the Nation's children against paralytic poliomyelitis, which became a possibility as the result of Dr. Salk's discovery, could be realized without the creation of any new governmental mechanisms and without any major departure from established Federal, State, and local public health patterns.

The committee found and expert witnesses agreed that the established mechanisms through which the Federal Government for years has made grants to the States for public-health purposes could and should be used as the vehicle through which the Congress could best assist the States to provide children and expectant mothers an opportunity for vaccination against poliomyelitis. Those grants have often been used by the States over the years for the purchase of vaccines and biologics used for the prevention of such diseases as smallpox, diphtheria, and whooping cough. Under such programs effective and

74002°—57 S. Rept., 84–1, vol. 2——96

smoothly working relationships between local physicians, local and county public health officers, State and Territorial health officers and the United States Public Health Service have become very well established and thoroughly accepted. The committee is convinced that we can best resolve the problem before us by using that same mechanism and following that same pattern, with only such minor adjustments as are necessary to meet the exigencies which may confront the several States during the months while poliomyelitis vaccine will be in short supply and legislatures will not be in session. Therefore, the committee reports to the Senate the bill (S. 2501) amending section 314 of the Public Health Service Act. The bill appears below.

A BILL To amend the Public Health Service Act to authorize grants to States for the purpose of assisting States to provide children and expectant mothers an opportunity for vaccination against poliomyelitis

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled, That section 314 of the Public Health Service Act, as amended (42 U. S. C. 246), is amended—

(a) by redesignating subsection (c) as subsection (c) (1) and by adding at the end of such subsection a new paragraph as follows:

"(2) To enable the Surgeon General to assist, through grants, the States to provide children (under the age of 20) and expectant mothers an opportunity for vaccination against poliomyelitis, there are hereby authorized to be appropriated for the period beginning July 1, 1955, and ending December 31, 1956, such sums as may be necessary to carry out the purposes of this paragraph. At the request of any State the Surgeon General may use all or any portion of any monetary grant authorized to be made to such State under this paragraph for the purchase of poliomyelitis vaccine to be furnished to the State in lieu of such grant (or such portion thereof). Vaccine so furnished shall be subject to the same requirements as to use as vaccine purchased from monetary grants to States under this paragraph. The Surgeon General may, in his discretion and in accordance with regulations designed to assure the most effective and equitable distribution of available supplies of poliomyelitis vaccine, specify certain categories of children and expectant mothers to be accorded priority in receiving an opportunity for vaccination against poliomyelitis, and during any period in which any priority group has been so established and is in effect all vaccine acquired by any State through assistance provided pursuant to this paragraph shall be made available only to persons within any such group. As used in this paragraph, the term 'State' means a State or the District of Columbia, Hawaii, Alaska, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Canal Zone.";

(b) by striking out "(c)" in subsection (h) and inserting in lieu thereof "(c) (1)";

(c) (1) by striking out "money paid" in the first sentence of subsection (i) and inserting in lieu thereof "monetary grants (including grants of supplies of poliomyelitis vaccine purchased out of appropriations under subsection (c) (2))";

(2) by striking out "payments" wherever it appears in that part of the first sentence of subsection (i) which follows clauses (1), (2), and (3) and inserting in lieu thereof "grants"; and

(3) by inserting in lieu of the last sentence of subsection (i) the following: "Until he is so satisfied the Surgeon General shall deny further grants to such State, subdivision, or organization from appropriations under such subsection, or shall limit any assistance thereunder to activities in which there is no such failure."

HOW THE PROGRAM WOULD OPERATE

The committee believes that the people who should and who will make the basic decisions as regards any particular program for immunization against poliomyelitis are the parents of the children concerned, their physicians and their local health officers. In the last analysis the parent of the individual child is the person who must decide whether vaccination is or is not desirable. This legislation

UNIVERSITY OF MICHIGAN LIBRARIES

would be operative only to the extent that the parents in a local community and the physicians and public health officers in that community undertook to vaccinate their children against poliomyelitis through programs involving the distribution of free vaccine. Wherever parents and physicians decide to undertake to vaccinate the children of the community before the onset of the 1956 poliomyelitis season, they would of course have a choice of various methods of achieving their objective.

In some communities parents, local physicians and local public health officers may decide that they would like to carry on mass immunization programs through the schools, similar to the programs they have already set up for the immunization of children in the first and second grades with vaccine provided by the National Foundation for Infantile Paralysis. Still other communities might decide to undertake vaccination programs similar to that operated in some States with respect to other types of vaccine. In a number of States vaccine is made available to everyone in the State without any reference to ability to pay, through public health clinics, hospitals and private physicians. A few States or communities within certain States may decide to provide polio vaccine on the same basis as they provide other vaccines and to make it available through public health clinics only for children of indigent families. And of course still other variations of these approaches could be devised in other communities in the light of local circumstances. As far as this legislation is concerned it would be operative only to the extent that the people of the local communities undertook to develop vaccination programs involving the distribution of vaccine without charge. To the extent that such a community plan required vaccine and if the community's plan met with the approval of its State department of health this bill would serve to make such vaccine available. In no sense would the Federal Government be imposing its decision or its idea of how best to grasp the opportunity which now presents itself to the people of the Nation on either the local communities or the people within those communities. Theirs and theirs alone would be the decision as to what sort of program they wanted to conduct. The Federal Government would be merely offering to help to the extent of providing vaccine should that help be requested.

It is not contemplated by the committee that the usual matching requirements under provisions of the Public Health Service Act will apply in the case of polio vaccine. This is accomplished by making the matching requirements in subsection 314 (h) inapplicable to this program. The committee, having been advised by the Surgeon General of the United States Public Health Service that it is in the public interest to encourage the immunization of as many children as possible in the shortest possible time, realizes that if the States undertake to achieve this objective before the onset of the 1956 poliomyelitis season they must develop programs that will assure the giving of the first two vaccinations to each child by or before December of 1955 in order that the third shot—to be given approximately 7 months later—can be given before the poliomyelitis season of 1956.

The committee also realizes that State legislatures will not be in session during that period and that in a great many instances the carrying on of such a program, though desired by the parents and physicians in particular communities would prove impossible because of the lack

of adequate funds. The committee feels therefore that in this instance the States should not be required to advance matching funds. The committee points out that insofar as under the proposed program the Federal Government will only be providing the vaccine itself, the States and local communities will, in fact, be contributing to the costs of an immunization program to the extent that they undertake to administer such programs and to the extent that they may actually provide the vaccinations themselves as distinct from the vaccine.

ANALYSIS OF THE BILL

The bill consists of one section which amends in several respects section 314 of the Public Health Service Act. Section 314 presently authorizes grants to the States: (1) For the prevention, treatment, and control of venereal diseases and tuberculosis, (2) for the purpose of assisting the States to establish and maintain adequate public health services, and (3) for the purpose of assisting the States to establish and maintain organized community programs of heart disease control. The grants so authorized are allotted to the States in accordance with the formulas set forth in subsections (d) and (e) of section 314, and are made available to the States on the basis of plans submitted to the Surgeon General and approved by him.

Subsection (a) of the bill redesignates subsection (c) of section 314 of the Public Health Service Act as subsection (c) (1), and adds at the end of such subsection a new paragraph (2). The new paragraph (2) of subsection (c) of such act authorizes the appropriation of such sums, for the period July 1, 1955, to December 1, 1956, as may be necessary to enable the Surgeon General to make grants to the States to assist the States to give children (under the age of 20) and expectant mothers an opportunity for vaccination against poliomyelitis. It is contemplated that the monetary grants thus made available to the States will be used by the States to purchase supplies of vaccine and that the States will take the necessary steps to assure that the vaccine so acquired will be available only for the immunization of children (under age 20) and expectant mothers. The Surgeon General may, also, at the request of any State, use all or any portion of any grant so authorized to be made to that State for the purchase of poliomyelitis vaccine which will be furnished to the State in lieu of a monetary grant or any portion thereof. Any vaccine so furnished to the State by the Surgeon General will be subject to the same requirements as to use as vaccine purchased by the State from funds made available to it under this program. In addition to the general authority of the Surgeon General to make regulations with respect to grants under section 314, contained in subsection (j) of such section, he is specifically given authority, in his discretion, to provide by regulation, designed to assure the most effective and equitable distribution of available supplies of poliomyelitis vaccine, for the establishment of certain categories of children and expectant mothers to be accorded priority in receiving an opportunity for vaccination against poliomyelitis, and while any such priority group has been so established and is in effect all vaccine acquired by a State through assistance provided under this program will be available only to persons within any such group. Finally, "State" is defined for purposes of this program to include not only the areas which are encompassed within

UNIVERSITY OF MICHIGAN LIBRARIES

the definition contained in section 2 (f) of the Public Health Service Act, but also Guam, American Samoa, and the Canal Zone.

Subsection (b) of the bill amends section 314 (h) of the Public Health Service Act by making inapplicable the requirement that State funds be used for the same general purpose as the grants made under section 314 in amounts to be determined by the Surgeon General.

Finally, subsection (c) of the bill makes certain changes in subsection (i) of section 314. Subsection (i) is the authority for withholding grants from States under the various programs contained in section 314 whenever the Surgeon General finds, after notice and hearing, that the State is not complying with the conditions and terms applicable to the granting of assistance under any such program. The changes are designed solely to make it clear that the withholding of such assistance contemplates not only the withholding of monetary grants but also extends to the withholding of supplies of vaccine whenever vaccine rather than funds is being made available to a State in accordance with the provisions of the new subsection (c) (2).

CHANGES IN EXISTING LAW

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill are as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

PUBLIC HEALTH SERVICE ACT, AS AMENDED

* * * * * * *

TITLE III—GENERAL POWERS AND DUTIES OF PUBLIC HEALTH SERVICE

PART A—RESEARCH AND INVESTIGATIONS

IN GENERAL

* * * * * * *

PART B—FEDERAL-STATE COOPERATION

IN GENERAL

* * * * * * *

GRANTS AND SERVICES TO STATES

SEC. 314. (a) * * *

(b) * * *

[(c)] (c) (1) * * *

(2) To enable the Surgeon General to assist, through grants, the States to provide children (under the age of 20) and expectant mothers an opportunity for vaccination against poliomyelitis, there are hereby authorized to be appropriated for the period beginning July 1, 1955, and ending December 31, 1956, such sums as may be necessary to carry out the purposes of this paragraph. At the request of any State the Surgeon General may use all or any portion of any monetary grant authorized to be made to such State under this paragraph for the purchase of poliomyelitis vaccine to be furnished to the State in lieu of such grant (or such portion thereof). Vaccine so furnished shall be subject to the same requirements as to use as vaccine purchased from monetary grants to States under this paragraph. The Surgeon General may, in his discretion and in accordance with regulations designed to assure the most effective and equitable distribution of available supplies of poliomyelitis vaccine, specify certain categories of children and expectant mothers to be accorded priority in receiving an opportunity for vaccination against poliomyelitis, and during any period in

which any priority group has been so established and is in effect all vaccine acquired by any State through assistance provided pursuant to this paragraph shall be made available only to persons within any such group. As used in this paragraph, the term "State" means a State or the District of Columbia, Hawaii, Alaska, Puerto Rico, the Virgin Islands, Guam, American Samoa, and the Canal Zone.

* * * * * * *

(h) Money so paid from allotments under subsections (a), [(c)] (c) (*1*), and (e) of this section, shall be paid upon the condition that there shall be spent in such State for the same general purpose from funds of such State and its political subdivisions (or in the case of payments to a political subdivision or to an agency, institution or other organization under circumstances specified in subsection (f) (1) of this section; from funds of such political subdivision or organization), an amount determined in accordance with regulations.

(i) Whenever the Surgeon General, after reasonable notice and opportunity for hearing to the health authority or, where appropriate, the mental health authority of the State (or, in the case of payments to any political subdivision or any agency, institution, or other organization under the circumstances specified in subsection (f) (1) of this section, such subdivision or organization) finds that, with respect to [money paid] *monetary grants (including grants of supplies of poliomyelitis vaccine purchased out of appropriations under subsection (c) (2))* to the State, subdivision, or organization out of appropriations under subsection (a), or subsection (b), or subsection (c), or subsection (e) of this section, as the case may be, there is a failure to comply substantially with either—

(1) the provisions of this section;

(2) the plan submitted under subsection (g) of this section; or

(3) the regulations;

the Surgeon General shall notify such State health authority or mental health authority, political subdivision, or organization that further [payments] *grants* will not be made to the State subdivision, or organization from appropriations under such subsection (or in his discretion that further [payments] *grants* will not be made to the State, subdivision, or organization from such appropriations for activities in which there is such failure), until he is satisfied that there will no longer be any such failure. [Until he is so satisfied the Surgeon General shall make no further certification for payment to such State, subdivision, or organization from appropriations under such subsection, or shall limit payment to activities in which there is no such failure.] *Until he is so satisfied the Surgeon General shall deny further grants to such State, subdivision, or organization from appropriations under such subsection, or shall limit any assistance thereunder to activities in which there is no such failure.*

* * * * * * *

○

UNIVERSITY OF MICHIGAN LIBRARIES

Calendar No. 848

84TH CONGRESS, 1st Session | SENATE | REPORT No. 840

PROVIDING FOR STRENGTHENING OF THE RESERVE FORCES

JULY 13, 1955.—Ordered to be printed

Mr. RUSSELL, from the Committee on Armed Services, submitted the following

REPORT

[To accompany H. R. 7000]

The Committee on Armed Services, to whom was referred the bill (H. R. 7000) to provide for strengthening of the Reserve Forces, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

PURPOSE OF THE BILL

The bill proposes certain measures designed to improve the effectiveness of the reserve components of the Armed Forces.

The committee would emphasize at the outset that this bill in no sense purports to be an extensive overhaul of existing programs and policies relating to and governing the present Reserve structure. As is pointed out below, the bill is a limited version of the more comprehensive plan which the President submitted to the Congress following his January 15 message relating to the military security of the United States, but it does accomplish certain objectives which are necessary to the continued improvement of the Nation's military Reserve.

THE NATIONAL RESERVE PLAN

The plan in its original form

The National Reserve Plan originally approved by the President, and developed under the able and vigorous direction of Assistant Secretary of Defense Burgess, had three concepts which the committee would commend to the Senate as being effective, as well as consistent with past Senate action on legislation relating to the military Reserve.

First, the plan made specific provision for what is in reality the crux of the problem—a program whereby adequate numbers of trained non-prior-service men would be channeled into the active units of the Reserve and into the provisional units which furnish individual filler and loss replacements. As proposed, this was a voluntary

program, but in case adequate numbers were not forthcoming on a voluntary basis, induction directly into the Reserve with 6 months of active duty for training was provided for.

Second, the plan provided for increasing the level of training of the National Guard by extending to that component the program for 6 months of training for persons enlisting in the guard.

Third, the plan provided for the organization of cadres of State militia as a nucleus for units needed for local defense in time of attack or disaster.

The foregoing points were fully incorporated in H. R. 2967, the original version of the President's National Reserve Plan.

Subsequent changes to the original plan

Before proceeding with an outline of the changes subsequently made in the President's original plan, it is again emphasized that the original plan went a very long way toward achieving a traditional Senate goal—the providing of a flow of trained non-prior-service men into the Reserve units so that such trained men, along with a nucleus of trained prior-service men serving on a voluntary basis, will carry the burden of the Active Reserve, leaving to other prior-service men only their basic obligation of liability for mobilization assignment and recall in time of war or national emergency.

The original legislation was rewritten three times during its consideration by the House and, in its final form, was enacted by the House as H. R. 7000. Each successive version of the bill deviated further from the original concept reflected in the President's National Reserve plan.

The basic difference in the pending bill from the President's original recommendation is that compulsion to achieve Reserve goals is applied only to prior-service men, who in effect have already been once subject to compulsion. There is no compulsion in the program of securing trained non-prior-service men for the Reserve components in the form of compelling men who have never served to enter the Reserve, with a period of 6 months of active duty for training to be followed by a period of service in the Active Reserve.

Major changes made by the committee

In an attempt to reconcile the divergent points of view with a maximum of equity for all, the committee made an important change in the liability for praticipation in Reserve training activities as imposed upon prior-service men by the House bill.

Under the House version, the Ready Reserve was given a training requirement of 48 assemblies for drill or training annually, with approximately 2 weeks of active duty substantially as now required by the National Guard. As an alternative, an individual in the Ready Reserve could take 30 days of active duty for training annually and, in case of failure to participate in either of these alternatives, the individual could be ordered to active duty for training for a period of 45 days.

Persons who entered the service subsequent to July 27, 1953, were made liable for this obligation by the House bill.

The committee felt that there was widespread misunderstanding among enlisted personnel now on active duty as to their liability, or obligation, actually to participate in 48 drills annually, plus 2 weeks of active duty on their return to civil life upon completion of their active service. Also, the 45-day period of active duty for training was a new approach.

UNIVERSITY OF MICHIGAN LIBRARIES

To insure that all men entering on active duty would have the opportunity clearly to understand their liability to this very appreciable requirement before they enter service, instead of after, the Senate version of the bill provides that it shall be applicable only to those entering the Active Forces on, or after, a date which shall be 30 days after the date of enactment of the bill.

As an inducement to provide trained men for the Reserve during the interim, before those who hereafter enter on active duty complete their period of service, the bill provides a 2-year program for paying to prior-service men a bonus for enlistment in combat- and combat-support-type units of the Army and Marine Corps Reserve. The bonus is two-thirds of that payable to an individual of like rank or grade enlisting in the regular forces.

Necessity for A Strong Reserve

No effort will be made in this report to emphasize the necessity for a strong and available Reserve. This has been emphasized by the committee on repeated previous occasions and supported on each occasion by the Senate. Additionally, spokesmen from practically all levels of the administration have repeatedly emphasized the point, especially during recent weeks.

It is pointed out that the administration recommends that the Ready Reserve be raised to a strength of 2.9 million. Testimony presented to the committee indicated that this requirement was based upon strategic plans and concepts approved by the Joint Chiefs of Staff and by the various services. A tabulation showing the ultimate strength of the Ready Reserve as of July 1, 1959, appears below.

Projected Ready Reserve under the national Reserve plan, by training status, June 30, 1956–59

[In thousands]

Service	June 30			
	1956	1957	1958	1959
Department of Defense, total	1,563	1,936	2,218	2,563
Pay drill	1,030	1,239	1,445	1,716
Annual only	57	291	316	340
No drill	476	406	457	507
Army, total	929	1,089	1,250	1,482
Pay drill	665	805	946	1,158
Annual only	29	49	69	89
No drill	235	235	235	235
Navy, total	313	380	452	531
Pay drill	171	181	194	205
Annual only	20	28	36	54
No drill	122	171	222	272
Marine Corps, total	174	210	243	245
Pay drill	51	60	70	81
Annual only	4	150	173	164
No drill	119	----	----	----
Air Force, total	147	257	273	305
Pay drill	143	193	235	272
Annual only	4	64	38	33
No drill	----	----	----	----

Major Features of the Bill

In view of the fact that considerable rearrangement of the text of the House bill was deemed necessary by the committee, the Senate amendment takes the form of striking all after the enacting clause of the House bill and inserting new language. For the benefit of those interested in the changes made by the Senate, the major features of both the House bill and the Senate amendment are discussed concurrently below:

1. Retaining the 8-year service obligation

Under present law persons who entered the Armed Forces subsequent to June 19, 1951, are required to serve on active service, and in a Reserve component, for a total period of 8 years. Any combination of active service plus Reserve participation which equals 5 years permits the individual to be transferred to the Standby Reserve.

The House bill reduced the total military obligation from 8 years to 6 years. The Senate amendment retains the 8-year obligation because of the fact that in time of war or national emergency individuals in the age groups concerned would undoubtedly be needed for full mobilization, and any peacetime reduction of their total military liability creates the illusion that they are not liable for active duty in time of future war or national emergency. Furthermore, the last 2 years of Reserve service of persons who have served on active duty are normally in the Standby Reserve, with no training requirement; so as a result, the reduction proposed by the House bill has no real meaning insofar as the individual serviceman is concerned.

2. Authorization for direct enlistment in Reserve components (other than the guard) and incentives for acceptance of a prescribed period of active duty for training

House bill.—The House bill provides that until July 1, 1959, certain individuals may be enlisted directly in Reserve components (other than the guard), within prescribed quotas, whenever the President finds that the authorized strength of the Ready Reserve of such components cannot be maintained at levels deemed sufficient by him. While serving satisfactorily under such enlistment any such person will be deferred from induction. Satisfactory service requires the performance annually of 48 drills or equivalent training periods and active duty for training for not more than 17 days.

As an inducement to undertake a period for active duty for training, however, an individual who serves 8 years under such an enlistment shall be exempt from induction, provided he shall have completed a period of active duty for training, which period is prescribed as "not to exceed 6 months." The House bill does not affirmatively require that such enlistments shall be made for a term of 8 years, nor that those enlisting shall be required to take the active duty for training. The Defense Department testified, however, that it did not plan to permit any direct enlistments in the Reserve components (other than the guard) without an agreement to perform this period of active duty for training.

The House bill also provides that a person who enlists in the Reserve (except the guard) for a period of 6 years shall agree to serve on active duty for a period of 2 years and upon the performance of such active duty may reduce his Ready Reserve service to a period which when

UNIVERSITY OF MICHIGAN LIBRARIES

added to the time spent on active duty totals 5 years. This is a new statutory authorty, but the practice has been in effect in the Navy and in the Air Force for a very appreciable period of time.

Senate amendment.—The Senate amendment also provides three distinct programs for enlistment in the Reserve components, but spells out more particularly what happens as a result of the election or the nonelection on the part of the individual to accept a period of active duty for training.

The first program provides that individuals may be enlisted in the Ready Reserve of any Reserve component (other than the guard) under conditions which are identical to those now obtaining with respect to the guard, that is to say, an individual who has not yet attained age 18½ may, if qualified and accepted, enlist in the Reserve components (other than the guard) and if he serves satisfactorily under such enlistment he shall be deferred from induction until he attains age 28.

The second program authorizes individuals who have not yet attained age 20 to enlist directly in units of the Reserve components (other than the guard) for a period of 8 years. However, persons so enlisted will be required to perform an initial period of active duty for training for not less than 3 nor more than 6 months, and thereafter to satisfactorily perform training duty similar to that now required of the guard.

The third program for direct enlistment in the Reserve components (other than the guard) provided by the Senate amendment authorizes an individual to enlist for 8 years with the understanding that he will perform 2 years of active service and upon the completion of such active service his status will be the same as that of any other person who has served that period of time. This program is identical with that provided in the House bill except that the enlistment is for a period of 8 years instead of 6 years.

3. Compulsory participation of prior-service men in Reserve training programs (other than the guard)

The House bill provides that persons who enter the active military service subsequent to July 27, 1953, shall be liable to participate in Ready Reserve training programs. That is to say, an individual who has completed 2 years of active service in the Army may, upon his return to his home upon the completion of his active service, be required to participate in armory drills and summer encampments of a local Reserve organization if his services are required. An individual returning from a 4-year enlistment in the Navy and Air Force would have a similar obligation, but only for a period of 1 year.

The Senate amendment imposes this obligation only with respect to persons who enter the active military service on and after a date which is 30 days after the date of enactment of this legislation. As an interim program to assist in meeting the requirements of the combat units of the Army and Marine Corps Reserve for a nucleus of trained prior-service men, the Senate amendment provides, for a period of 2 years, an incentive in the form of an enlistment bonus payable to qualified prior-service men who are accepted for enlistment or appointment in these combat units. The amount of the bonus is to be two-thirds of that paid to persons of similar grade reenlisting for the regular services, and is limited to the numbers specifically appropriated for by the Congress.

4. Minimum training requirements of the Ready Reserve

For a great many years members of the National Guard and the Air National Guard have had a statutory requirement to perform 48 drills annually and to serve on active duty for a period of not less than 14 days.

The Ready Reserve, however, has never had a specific statutory requirement setting forth the minimum amount of training which its members must undergo in order to be deemed to be satisfactorily participating in the program.

Both the House bill and the Senate amendment establish for the Ready Reserve a requirement that, except as specifically provided by regulations prescribed by the Secretary of Defense, all other members of the Ready Reserve shall be required to participate in not less than 48 scheduled drills or training periods annually, and to perform not to exceed 17 days of active duty for training. As an alternative, an individual who cannot attend weekly drills may meet the requirement by performing a 30-day period of active duty for training.

In the event members of the Ready Reserve fail satisfactorily to perform their duties, they may be ordered to perform active-duty training for a period of not more than 45 days. As an alternative, an individual member of the Ready Reserve who would otherwise be liable for induction may be discharged, and shall then be given priority above all other registrants for induction for a period of 2 years of active service.

5. Size of the Ready Reserve; up to 1 million Ready Reservists may be ordered to duty by the President

In both the House bill and the Senate amendment the size of the Ready Reserve is increased from 1.5 to 2.9 million and of this number, not to exceed 1 million, may be ordered to active duty by the President during a national emergency declared by the President.

6. Increasing the level of training of the National Guard

Since 1948, the National Guard and the Air National Guard have had authority to accept enlistments from persons who have not yet attained age 18½. Although this program has been a major factor in enabling the guard to attract a larger number of enlisted men on a participating basis than all other Reserve components combined, it has the serious disadvantage of not providing enlisted men who have had a period of active duty for training.

Under existing law, the liability for induction of the guardsman who enlisted prior to attaining age 18½ runs to age 28. The Senate amendment provides that such liability shall be reduced to a total period of 8 years of service in case the individual perform a period of active duty for training of not less than 3 months.

7. Continuous screening of the Ready Reserve

Both the House bill and the Senate amendment spell out a program whereby the Ready Reserve will be subject to continuous screening under regulations prescribed by the President so that each armed force may remove from its Ready Reserve rosters personnel who would not be available if mobilization became necessary.

UNIVERSITY OF MICHIGAN LIBRARIES

8. Graduates of certain officer-training courses are to receive commissions and active duty for training upon graduation

Both the House bill and the Senate amendment provide that qualified graduates of officer-training courses referred to in the Universal Military Training and Service Act shall be given their commissions upon graduation and, if such graduates are not actually required for active duty for service, they shall be ordered to active duty as officers for training for a period of 6 months. Following this training period, they shall remain in the Ready Reserve and participate in the required training program.

9. Ministers and ministerial students

Under present law regular or duly ordained ministers or ministerial students are exempt from service but not from registration.

Both bills extend this concept to apply to Reserve service as well. Ministers who are in the Reserve shall be entitled to a discharge upon their request; reservists who are divinity students are not to be required to serve on active duty for service or training while attending theological schools.

10. Role of Selective Service System in ordering members of the Standby Reserve to active duty

Both the House bill and the Senate amendment specify that members of the Standby Reserve may be ordered to active duty only after a determination of their availability has been made by the Director of Selective Service.

Views of Selected Government and Non-Government Witnesses Appearing Before the Committee

The following extracts attempt to summarize testimony given to the committee by representatives of major groups and organizations and by the administrative branch of the Government.

Hon. E. Keith Thomson, Representative at Large in Congress from the State of Wyoming

Congressman Thomson testified in favor of H. R. 7000 and of requiring that enlistees in the 6-months' program should complete high school, or reach 19 years of age, or be under 20 years of age.

American Council on Education

Mr. Raymond Walters, president of the University of Cincinnati, presented the views of the council's committee on relationships of higher education to the Federal Government. The council endorsed H. R. 7000, particularly the following features: that enlistment in the 6-months' program is entirely voluntary; that procedures are authorized to protect critical manpower needs; that screening from the Ready Reserve into the Standby Reserve shall be in accordance with regulations prescribed by the President rather than the Secretary of Defense; that the program is initially authorized for only 4 years; that Reserve service may be for 30 days annually rather than 48 weekly drills; that Standby reservists are to be recalled to active duty through the selective-service system; and that the ROTC is emphasized as an important part of the Reserve program.

American Federation of Labor

Mr. George D. Riley, member, national legislative committee, testified that "the A. F. of L. endorses the basic objectives of this legislation as necessary to strengthen the Nation's defense forces." Stating that H. R. 7000 is a great improvement over its original form, Mr. Riley commented favorably on the following features of the bill. It provides for an increase in the number of reservists as well as Reserve activities; it reduces the 8-year military obligation to 6 years; it will bring younger men into active Reserve training; and it makes the 6-months' program purely voluntary. Furthermore, the original compulsion of giving a less-than-honorable discharge has been deleted from the bill in favor of the 45 days of annual training; screening of Ready reservists into the Standby Reserve is provided for; and the bill as it stands is not universal military training to which the A. F. of L. has always been opposed—indeed, "the basic purpose of this legislation is quite different from UMT."

National Association of Manufacturers

Mr. Edmund Claxton, chairman of the association's subcommittee on manpower of the committee on research, testified regarding the scientific and engineering manpower problem as it relates to the national defense. H. R. 7000 was endorsed by the association because of its contribution to this problem in two respects: (1) the bill provides that Standby reservists will be subject to recall through the Selective Service System; and (2) provision is made for the continuous screening of the Ready Reserve under regulations prescribed by the President.

Engineers Joint Council and the Scientific Manpower Commission

Mr. Maynard M. Boring, Chairman of the Engineering Manpower Commission, testified that H. R. 7000 "provides the necessary legislative framework for effective use of our highly competent young engineers and scientists. From the point of view of the relation of technologists of military age to national security, this is the best legislation of its kind ever considered by the Congress." These organizations stated their emphatic support of the bill because of the following strong provisions: that it makes a definite mobilization plan possible; that the 6 months' training program is on a voluntary basis; that provision is made for constant screening of the Ready Reserve with due regard for critical skills; that members of the Standby Reserve would be called through a process of selection; that the President is given authority to establish quotas which permit persons with critical skills to participate in the 6 months' program; and that the legislation permits the retention of the ROTC program for the purpose of providing Reserve officers.

National Society of Professional Engineers

Mr. Paul H. Robbins, executive director, offered testimony concerning the relationship of the professional engineers of the Nation to the total national defense, particularly as it involves the achievement of a balance between military needs for manpower and specialized technical manpower requirements of industry. The society expressed its approval of three provisions in H. R. 7000 which have "the advantage of a reasonable degree of flexibility to permit improvements through administration and by Executive order of the President." These provisions are (1) that the President may prescribe regulations concerning the selection of persons with critical skills engaged in

UNIVERSITY OF MICHIGAN LIBRARIES

critical defense-supporting industries and research so that they may fulfill their military obligation in the 6-months' active duty program, followed by 7½ years of Reserve service; (2) that a screening process is provided whereby Ready reservists can be transferred to the Standby Reserve; and (3) that Standby reservists may be ordered to active duty "only after a determination of availability by the Director of Selective Service."

Radio-Electronics-Television Manufacturers Association

Mr. James Secrest, executive vice president, endorsed the legislative provision of H. R. 7000 which contributes toward a solution of the problem of the shortage of technical and scientific personnel. The particular feature of the legislation which meets the approval of the association's manpower committee is that which provides that persons with critical skills who are engaged in critical defense-supporting industries and research may be allowed to enlist in the 6-month Reserve program under rules and regulations prescribed by the President.

The American Legion

Mr. Seaborn P. Collins, national commander of the American Legion, urged immediate committee and Senate approval of H. R. 7000, stating that—

this bill is one of the most important pieces of legislation ever to come before the Congress of the United States. We believe it is our responsibility as well as our privilege to do everything possible to secure enactment of this essential program.

National Farmers Union

Mr. James G. Patton, president of the National Farmers Union, urged delay in action on H. R. 7000 until further study had been made by the Department of Defense to correct the difficulties of the present Reserve system. Opposing a compulsory Reserve, the union came out for voluntary Ready Reserves which could be strengthened by more effective programs, improved training facilities, and increased pay for volunteer duty.

The National Guard Association of the United States

Maj. Gen. Ellard A. Walsh, president, expressed the "hope that H. R. 7000, or a version thereof, will prove beneficial for the other Reserve components." Pointing out that "inasmuch as the bill does not pertain in any way to either the Army or Air National Guard," General Walsh testified that the guard had been able to build up its organization, strength, and training under the provisions of existing laws, and had "submitted again and again that we are well satisfied with these existing provisions of law and do not desire any significant changes." After giving the facts and figures on present guard strength, attention was called to fact that the Army and Air National Guard already operate on a minimum basis of 48 armory drills and 15 days of field training annually, and that they perform 6 days of week-end training as well as additional training without compensation. General Walsh indicated that the Congress had been generous in its appropriations for the guard, but that—

if the Congress desires that the Army and Air National Guard develop to a greater degree and more rapidly all that is necessary is for the Congress to so determine and provide the money necessary for such increased strengths and the facilities and installations which will be required.

As far as basic training is concerned, this problem has been solved for the Air National Guard, and consideration can be given by Congress at a later time for the establishment of a basic training system for the Army National Guard. A recommendation will be made at a later date for an 8-week basic training program to be established in each State or group of States.

Reserve Officers Association

Col. C. M. Boyer, executive director, testified that the purposes of H. R. 7000 meet the basic requirements that the association considers essential for a strong and well-trained Reserve. The association finds this bill—

in many ways much more acceptable * * * than some of the earlier bills that were offered. We are particularly delighted that the Armed Forces Reserve Act is being amended only to a minor degree and that the amendments to the Universal Military Training and Service Act are relatively few and easily understood.

Veterans of Foreign Wars of the United States

Mr. Adin M. Downer, legislative counsel, testifying for the VFW, endorsed H. R. 7000 because the Nation needs a Reserve force, the Reserves should be trained, and they should be composed largely of nonveterans who have not performed active service. Mr. Downer presented a public opinion poll, conducted on the question of universal military training, "which is far more expansive than the program now under consideration." The results indicated public support for national security training, and the VFW concluded that—

if the polls had been taken on the question of a Reserve Forces training program the support would be much greater and the opposition almost negligible.

Disabled American Veterans

Mr. Charles E. Foster, assistant national director of legislation, represented the DAV which gave its full support and endorsement to the provisions of H. R. 7000. Mr. Foster brought out that the bill does not embody the universal military training concept because it does not have "universal features." The DAV particularly approved the provision whereby a reservist could be recalled to active duty for 45 days if he neglected his obligation for reserve training.

Jewish War Veterans of the United States of America

Mr. Bernard Weitzer, national legislative director, testified in favor of a trained and Ready Reserve to supplement the regular Armed Forces. He emphasized that

A combat Ready Reserve Force such as can be expected from this program will protect us from the cruel injustice which we saw in sending nearly a million veterans of World War II into our Armed Forces during the Korean fighting.

AMVETS

Mr. Raymond Winterbottom, assistant legislative director of AMVETS, testified that H. R. 7000 would be a good step in the direction of attaining the objective of a strengthened, trained Reserve Force. Endorsing wholeheartedly the broad principles contained in the bill, Mr. Winterbottom said:

We will support this or any other measure reported by this committee that provides a strong citizen army made up of minutemen ready to go into emergency situations at a moment's notice; that recognizes equality of sacrifice among all segments of the American population when the call to serve is made and finally

UNIVERSITY OF MICHIGAN LIBRARIES

recognizes the impropriety of calling the same young man twice or three times in a decade while other young men never have either the obligation or the opportunity to serve. We therefore respectfully urge that H. R. 7000 or a similar measure be reported by this committee without further delay.

Association of Land-Grant Colleges and Universities

A statement was submitted by Mr. C. Clement French, president, State College of Washington, Pullman, Wash., who is also chairman of the committee on national defense of the Association of Land-Grant Colleges and Universities. The association specifically commended that provision in H. R. 7000 which requires that qualified ROTC graduates be commissioned as Reserve officers. Pointing out that at present there is virtually no reserve of officers not on active duty, the association commented that—

The expansion of the Reserve Forces contemplated in H. R. 7000 will create a substantial need for additional Reserve officers, and allow the ROTC to return to its mission: That primarily of training Reserve, rather than immediate active duty officers.

Hon. Strom Thurmond, United States Senator from South Carolina

Senator Thurmond appeared before the committee on behalf of H. R. 7000, as a Senator from South Carolina, as an Army Reserve officer of approximately 27 years, and after having concluded a term as president of the Reserve Officers Association. Senator Thurmond expressed his agreement with the statements made by Colonel Boyer, executive director of the Reserve Officers Association, on July 8 when he testified in support of H. R. 7000. Senator Thurmond said that although the bill should be amended as it came from the House, he approved of it as "the most practical and reasonable plan which has been suggested thus far." It is necessary to have compulsion as well as incentives—"I do not think that the incentive could be relied on in lieu of compulsion."

Senator Thurmond pointed out that the national defense required either the maintenance of a large, expensive Regular Military Establishment or one of reasonable size backed upby a large combat-ready Reserve. He felt that an adequate Military Establishment which could be expanded by trained Reserve Forces would be preferable not only from the standpoint of American traditions, but that it would be less expensive and more feasible to maintain.

Hon. Julius Ochs Adler, Chairman, National Security Training Commission

Mr. Adler testified that H. R. 7000 would probably do little to alter the present basically inequitable situation whereby in an emergency veterans and prior servicemen would have to be called to active duty.

If we are to have a reliable Reserve, we will have to have in it a sufficient number of pretrained young men to bring its units to combat readiness quickly.

Mr. Adler was of the opinion that the contemplated program, based on volunteers not to exceed a quota of 250,000 annually for 4 years, would not furnish sufficient men to satisfy the Army requirement alone, and recommended that the ceiling be removed—

and thereafter the same mandatory method employed for Reserve duty that is used in designating men for extended military service. We must not delude ourselves that the lack of pretrained young men can be overcome solely by voluntary methods. We can never lift the burden of double jeopardy off the backs of

men who already have served unless we make equitable and adequate provision for inducting young men for 6 months of training, followed by 7½ years of enforced Ready Reserve obligation. That is the key to a vitalized Reserve based on a democratic sharing of the military duties of citizenship.

Furthermore, Mr. Adler thought that the National Guard should also be included in the bill and provision made for guardsmen to participate in the 6 months' program.

Admiral Arthur Radford, Chairman of the Joint Chiefs of Staff

Admiral Radford testified that unless legislative authorization is obtained for building up a militarily prepared Ready Reserve of 2.9 million men, "there will have to be a complete review and reorientation of our defense plans." The limited number and short training of the men in the 6-months' program, as well as the military requirement for specialized skills, means that the national defense must depend upon men who have just completed active duty and are thus fully trained when they enter the Reserves. Interdependent skills, military missions, and geographic distribution of Reserve Forces cannot be attained by purely voluntary methods. Just as incentives are utilized to the maximum degree in the Regular Forces, they may be utilized for the Reserve Forces, but with each group it is necessary to have some compulsive feature, e. g., the draft act is essential background for the Regular Forces. Although the Air Force and the Navy have said they would not use the compulsory features of the bill, Admiral Radford thought they would find it necessary to do so in order to round out the skills required for their Reserve Forces.

Gen. Maxwell D. Taylor, Chief of Staff of the Army

General Taylor testified that the Army would prefer modification of H. R. 7000 in accordance with the recommendations set forth below, but—

regardless of the action on these modifications, the Army supports this legislation and will do everything in its power to get the most effective Reserve possible in accordance with the provisions of the bill in its final form.

In his prepared statement, General Taylor stated that an adequately trained Ready Reserve could not be achieved solely by voluntary methods and that the—

Army needs legislative action to provide an effective system based on compulsory basic training and active participation of nonveterans supplemented by a hard core of former servicemen.

Numbers of men alone will not suffice—a combination of skills is needed to provide the trained technicians essential for the equipment of modern warfare.

The procurement of nonprior servicemen on a voluntary basis will make it difficult to plan for training and facilities inasmuch as it will be impossible to know the exact numbers of men available in advance. Therefore, General Taylor recommended that—

these young men should be drafted into the Reserve [for] this 6-month type of training.

The authorized strength of the Army would have to be increased to take care of any additional training personnel needed for the increased Reserve program.

General Taylor was critical of H. R. 7000 for its omission of the National Guard because this would result in "a dual system of pro-

UNIVERSITY OF MICHIGAN LIBRARIES

curement and training of non-prior-service personnel, one for the Army Reserve and another for the National Guard." He felt that the training should be uniform, the National Guard being "treated in a parallel manner to the Army Reserve." The lack of basic training in the guard would mean training some of the men during an emergency or replacing them with men who could qualify for overseas service.

Statement of Adm. Robert B. Carney, Chief of Naval Operations

Adm. Donald B. Duncan read the prepared statement of Admiral Carney in support of H. R. 7000 provided certain important changes are made in the bill.

The features of the bill which the Navy favors are as follows: The provision for compulsory participation in Reserve training which the Navy does not expect to use but regards as an insurance measure in the event their expectations for a larger voluntary program do not materialize; the provision for enlistment in the Reserves with the agreement to serve on active duty for 2 years; the authorization whereby the President may order ready reservists to active duty in an emergency; and the continuous screening procedures which will enable the Ready Reserve to be composed of men who can be quickly mobilized.

The Navy has serious objections, however, to two features of the bill as at present written:

1. The reduction of the total military obligation from 8 to 6 years would make it impossible for the Navy to achieve the size and quality of Reserve Forces essential to meet joint war plans. It is expected that many men in the Naval Ready Reserve will voluntarily continue their training, but if not, it would be preferable to carry them on the rolls for mobilization rather than to try to procure them from the civilian manpower pool. The Navy urges, therefore, that the 8-year total military obligation be restored in H. R. 7000.

2. The Navy is opposed to the House floor amendment to H. R. 7000 which provides that young men must finish high school or be 19 years of age (or under 20 years) before they can enlist in the 6-month program. Although the Navy does not plan to use the 6-month trainees, this particular educational provision would have an adverse effect upon the ability of the Navy to recruit 4-year enlistees for active duty. The Navy recommends, therefore, that the age limit for the 6-month program be fixed at not over 18½ years.

Gen. T. D. White, Vice Chief of Staff of the Air Force

General White testified that the Air Force depends upon long-term voluntary enlistments, and that the requirements for the Air Force Reserve can be met through 1959 by the normal transfer of trained men from the Regular Air Force into the Ready Reserve. General White indicated that the bill in the form passed by the House would be injurious rather than helpful to the Air Force, and supported H. R. 7000 provided the amendments recommended by the Department of Defense were adopted.

Gen. Lemuel C. Shepherd, Jr., Commandant of the Marine Corps

General Shepherd supported the enactment of H. R. 7000 provided certain amendments were incorporated in the bill; otherwise, he

testified that the Marine Corps would suffer adverse effects in the strength and mobilization readiness of its reserves.

General Shepherd estimated that a reduction of the 8-year military obligation to 6 years would dangerously affect the combat readiness of the Marine Corps.

Such a reduction would require an annual input into the Marine Corps Reserve of approximately 44,000 nonprior-service men instead of only 5,500 required by the present 8-year plan. This large loss would be sustained because the Reserve now includes a disproportionately large number of men who are obligated for the 8-year period. It would be difficult to recruit 44,000 voluntary trainees annually without disadvantage to the Regular Marine Corps. On the other hand, if the Marine Corps used the 2-year plan of active duty within the 6-year obligation concept, it would interfere with the recruitment of 3 and 4 year enlistees who are now readily obtainable.

Testimony was offered against the provision in H. R. 7000 which requires the 6 months' trainees to graduate from high school or become 19 years of age. Such enlistments should be limited to men who are between 17 and 18½ years old so that there will be no interference with long-term enlistments in the Regular forces. The Marine Corps concurs, however, in the proposal that young men who are pursuing high-school education in a satisfactory manner should have their 6-month training period deferred until after graduation or until they are 20 years of age.

The Marine Corps favors enactment of compulsory participation in training as an insurance provision in the event that military readiness cannot be achieved through voluntary means.

Vice Adm. Alfred C. Richmond, Commandant of the United States Coast Guard

The Coast Guard recommends the enactment of H. R. 7000 subject to two amendments. First, it is considered essential that the 8-year total military obligation be retained instead of reducing it to 6 years. The reduction would cause a rapid turnover of personnel, result in increased administrative costs, and create a difficult procurement problem. Many trained reservists would be removed from the program, and during the next 4 years result in a 30 percent increase in planned personnel procurement.

The second amendment relates to the provision that young men must have completed high school or reached the age of 19 years before they can enlist in the 6 months' program. This would complicate the problem of procurement and administration of the program inasmuch as it would result in a peak influx of personnel following graduation from high school. The Coast Guard prefers a more flexible arrangement whereby young men may be affiliated while in high school and defer their training until after graduation.

Admiral Richmond testified that the Coast Guard is in favor of a strong Reserve bill which will enable Reserve Forces to reach their strength levels, encourage participation in training, and provide for mandatory participation when necessary.

Statement of Secretary of Defense Charles E. Wilson

In supporting H. R. 7000, Secretary Wilson said that the bill—

> with certain improvements proposed by the Department of Defense will aid materially in the further development of Reserve forces necessary to maintain national security * * *

UNIVERSITY OF MICHIGAN LIBRARIES

Emphasizing the importance of Reserves that are organized and trained so that they can be speedily mobilized to augment the Regular forces in the event of an emergency, the Secretary said that the Department would continue its efforts to improve training programs, facilities, and equipment.

The change which the Department considers essential is the retention of the present 8-year total military obligation of Active and Reserve service.

> Unless the present 8-year military obligation is continued, our capability of attaining Ready Reserve goals will be seriously jeopardized and delayed indefinitely for several services. In particular, it will become most difficult and perhaps impossible to reach various Ready Reserve strength levels at the times now planned.

The Secretary also stressed the necessity of providing for assured participation in Reserve training programs.

Assistant Secretary of Defense Carter L. Burgess (Manpower and Personnel)

Secretary Burgess strongly urged that the total 8-year military obligation be continued. The size and nature of the planned Reserve structure are based upon the 8-year period and would be seriously reduced if the 6-year provision were allowed to remain in H. R. 7000. The number of men, as well as the balance of needed skills, would be reduced; the screening of Ready reservists into the Standby Reserve would be adversely affected by the lack of personnel in excess of Ready Reserve requirements; some of the services would not be able to meet their Ready Reserve goals; and the lesser 6-year obligation would interfere with the minimum buildup of the Standby Reserve to meet Army and Navy mobilization plans. A reduction of the United States military obligation would cause us to compare unfavorably with our NATO allies, many of which require much longer periods of military service.

A second urgent recommendation was made against the adoption of the House floor amendment by which young men may enter the 6-months' program after graduation from high school or reach the age of 19, and before they are 20 years of age. The Department estimates that this provision would seriously interfere with long-term volunteers for the Regular Forces, and urges that the age requirement be restored to the original figure—from 17 to 18½ years. Mr. Burgess pointed out that in fiscal 1954, 66 percent of original long-term volunteers for the Regular Forces came from young men under 19 years of age, and that the small group of persons who are more than 18½ years old when they graduate can be taken care of by departmental regulations rather than by a provision of law which works undue hardship on the entire program.

Expressing regret that the National Guard was not included in the bill, Mr. Burgess said that—

> It is the firm position of the Department that all Reserve components should be placed on the same basis with respect to minimum standards of initial training for young men who will enter directly into Reserve status under terms of draft deferment.

The Department feels that in spite of the fact that the National Guard Association testified before the Senate Armed Services Committee that it did not wish to be included in H. R. 7000, that there are

various weaknesses in Guard training programs which need to be overcome.

The Department is in favor of a Voluntary Reserve insofar as it is possible to achieve, and will lay primary emphasis on incentives. The existence of enforcement measures, however, is an important adjunct to obtaining compliance. "The National Guard experience shows that where enforcement measures are available, they are effective, though rarely applied." The compulsions relating to participation in Reserve training which are now in the law are two severe, and the Department endorses the 45-day provision in H. R. 7000 which is designed to insure participation. It is a permissive authority which will be used with discretion.

One of the original objectives that was sought in the Reserve legislation was authorization for the States to establish a State militia in peacetime. Such provision is not made by H. R. 7000, but it is still considered as a desirable goal in connection with civil-defense activities.

Maj. Gen. Lewis B. Hershey, Director of Selective Service

General Hershey testified that it was necessary to build a Reserve force as expeditiously as possible to provide for survival insurance, and that "if the present bill before this committee—it came from the House—is the only thing that we can get, I will take it." General Hershey stated that a total military obligation of 8 years is imperative, "but if we don't get the 8 years we will take less than the 8 years."

He favored the provision of H. R. 7000 which gives to the Reserves the same privilege enjoyed by the National Guard—to enlist men who are deferred from the draft as long as they participate satisfactorily in training. The compulsion of the 6 months' training to be made available to the other Reserves would also benefit the National Guard.

General Hershey testified against the high-school graduation amendment added to the bill by a House floor amendment and advocated a return to the age limit of 17 to 18½ years of age for enlistees. In addition, he thought that scientists and engineers who come under the critical-skills provision of H. R. 7000 and are thus eligible for transfer into the Standby Reserve after their 6 months' training should also come under the same penalties as other men in the program.

The following organizations were represented by witnesses who testified in opposition to the idea of universal military training, and for various other reasons

Americans for Democratic Action
Church of the Brethren
Evangelical and Reformed Youth Fellowship
Friends Committee on National Legislation
National Association for the Advancement of Colored People
National Civic League
National Conference of Methodist Youth
National Council Against Conscription
National Temperance League
National Woman's Christian Temperance Union
Presbyterian Church U. S. Youth Fellowship
Students for Democratic Action
United Christian Youth Movement
Women's International League for Peace and Freedom

UNIVERSITY OF MICHIGAN LIBRARIES

SECTION BY SECTION ANALYSIS

SECTION 1. SHORT TITLE

This section provides that the act may be cited as the "Reserve Forces Act of 1955".

Two prior versions of the House bill cited it as the "National Reserve Plan", but the present House bill has no short title.

SECTION 2. AMENDMENTS TO THE ARMED FORCES RESERVE ACT OF 1952

This section, which consists of eight subsections, makes a series of amendments to the Armed Forces Reserve Act of 1952.

(*a*) *Increasing the authorized strength of the Ready Reserve*

This subsection increases the authorized strength of the Ready Reserve from 1,500,000 to 2,900,000.

(*b*) *Involuntary participation by prior-service men in Reserve training activities and programs*

Present law.—The 8-year service liability imposed by the 1951 amendments to the Selective Service Act was based on the premise that the program of universal military training authorized by that enactment would begin the following year, as the act specifically provided, and that trainees from this program would fill the active units of the Reserve components, except for the nucleus of prior-service men serving voluntarily. Men completing active service were given liability for Reserve membership, but it was not contemplated that they would again be mobilized or forced to undertake additional training on an involuntary basis except in time of war or national emergency.

What the House bill does.—The House bill changes existing procedure by requiring that persons who entered the active forces after July 27, 1953, shall upon release from such active service be liable for inactive duty training for 48 assemblies for drill annually (or other equivalent periods of training) and not to exceed 17 days of active duty.

First alternative.—It also provides that where a member "elects" not to participate in the above training program, he shall be offered as an alternative a period of active duty for training of not to exceed 30 days annually.

Second alternative (*punitive*).—Any member "who fails through refusal, when able to perform his obligation pursuant to the above alternatives" may be ordered involuntarily to active duty for not to exceed 45 days annually.

This provision of the House bill is consistent with a concept that no additional obligation is being imposed upon the prior-service man and that the provision merely "puts teeth" into existing law, and a further concept that it is only through the participation of prior-service men that present Reserve requirements can be met.

What the Senate amendment does.—The Senate amendment proposes that the liability imposed by the House bill shall be effective only to persons inducted or enlisting on and after a date which is 30 days after the enactment of the bill, and that an interim enlistment bonus be provided for men who have completed not less than 18 months of

active service, and who are accepted for enlistment or assignment to combat and combat-support Reserve units (including the National Guard) of the Army and the Marine Corps.

(c) *Continuous screening of Ready Reserve*

As visualized by the bills, the Ready Reserve is to be kept in a high state of readiness for immediate active service. This requirement involves not only a high level of training and organization, but a high level of availability as well. To insure the necessary level of availability the bills provide that the Ready Reserve shall be subjected to a continuous screening process so as to keep the rosters of the Ready Reserve free from persons who for any reason could not answer immediate calls for active duty.

At the time of the Korean recall there was no adequate screening of the reservists who were ordered to active duty. Furthermore, there had been no screening program previously in operation during the years prior to Korea. As a result, there were many mistakes which could have been prevented by a continuous screening program carried on in advance of the recall.

The general objective of the continuous screening program contemplated by the bills is to prevent the significant attrition which results at the critical moment of mobilization from having on unit rosters large numbers of persons who in fact are not available for active service.

The bills contemplate that this screening will be conducted by the military, and list five general policies which will cover the operation of the screening program. It would be anticipated that the military departments would establish criteria based upon the policies outlined in the bills and that the application of these criteria to Ready Reserve rosters would be carried out by the military authorities without waiting for application from the individual reservists. The screening process would not necessarily be a voluntary matter, and some individuals who could not meet the screening criteria, and who might nevertheless desire to continue in the Reserve components for retirement purposes, would be transferred from the Ready Reserve involuntarily. It will be recalled that under other provisions of the bills, transfer from the Ready Reserve is no longer dependent upon a request therefor.

It is provided in the bill that in the conduct of the screening process "recognition" would be given to participation in combat. As used in this context, the word "recognition" connotes a basis for selection out, rather than for retention in, the Ready Reserve.

The screening out of individuals from units of the Army National Guard or Air National Guard would be subject to the consent of the Governor.

Transfer from Standby to Ready Reserve.—New subsection (l) of section 208, added by the Senate amendment, provides for the retransfer to the Ready Reserve of any individual who has been transferred to the Standby Reserve for a particular reason, when that reason has ceased to exist.

(d) *The role of Selective Service System in ordering members of the Standby Reserve to active duty*

Present status of the Standby Reserve.—Under the concept of the Armed Forces Reserve Act of 1952 the Reserve components were

UNIVERSITY OF MICHIGAN LIBRARIES

divided into categories of vulnerability to active duty rather than into categories of readiness for such active duty. The Ready Reserve was to be called first and the Standby Reserve called only when adequate numbers and units of the proper types were not available from the Ready Reserve.

A further important concept of the Armed Forces Reserve Act was that there will be in the Standby Reserve many units and individuals undertaking the same amounts of inactive-duty training and active duty for training as is the case in the Ready Reserve, and that units and individuals of the Standby Reserve would be as fully organized and as well trained as the units and individuals of the Ready Reserve. As has previously been stated, the difference between the categories was not the level of training, organization, pay status, or participation in training activities, but their relative liability to active duty with the Armed Forces in case of need.

In time of war or national emergency declared by the Congress, units and members of the Standby Reserve may be ordered to active duty by the military departments, in the same manner as members of the Ready Reserve.

What the bill does.—This subsection amends the Armed Forces Reserve Act to provide that members of the Standby Reserve may be ordered to active duty only after a determination of their availability has been made by the Director of Selective Service.

Future status of the Standby Reserve.—Although the new provision furnishes a method of balancing needed military and civilian skills, it would appear impossible in the future to maintain in the Standby Reserve organized units and fixed training programs. In effect, the Standby Reserve would tend to become mainly a pool of individuals on an inactive status, with no training liability except in time of war or national emergency.

(e) Liability of Ready Reserve during national emergency proclaimed by the President

Subsection 233 (b) (1) of the Armed Forces Reserve Act of 1952 authorizes the ordering to active duty of members of the Ready Reserve in time of national emergency proclaimed by the President, subject to the limitation that only such numbers could be ordered to active duty under these circumstances as were specifically authorized by the Congress. This subsection continues this authority, but with the significant change that the President may recall up to 1 million Ready reservists without specific approval of Congress.

(f) Ministers and ministerial students

This subsection provides that a reservist who becomes a regular or duly ordained minister of religion shall at his request be entitled to a discharge if already on active duty or serving in the Reserve. A reservist who is a student preparing for the ministry in a recognized theological or divinity school shall not be required to serve on active duty, active training and service, active duty for training or inactive duty training while in such status. These two provisos complement section 6 (g) of the Universal Military Training and Service Act, which provides that regular or duly ordained ministers of religion and students preparing for the ministry shall be exempt from training and service but not from registration.

(*g*) *Annual report from the Secretary of Defense*

This subsection provides that the Secretary of Defense shall cause records to be maintained in the military departments showing the numbers of persons participating in active duty for training and in inactive duty training in a drill-pay status and shall report to the President and to the Congress annually on the progress as to the strengthening of the Reserve Forces.

This section is not intended to duplicate the report called for in section 257 (e) of the Armed Forces Reserve Act, which provides as follows:

"The semiannual report of the Secretary of Defense as required by the National Security Act of 1947, as amended, shall contain a chapter which shall be a report of the Reserve Forces Policy Board on the status of the reserve programs of the Department of Defense."

(*h*) *Special enlistment programs*

This subsection of the bill establishes three special enlistment programs directly in the Reserve units of the Reserve components, each program being contingent upon the performance of a specified period of active duty for service or active duty for training. The programs are explained in detail below.

New section 261. Direct Reserve enlistment, with requirement to serve on active duty for a period of 2 years

This provision requires that any person enlisting in the Reserve components (except the National Guard and the Air National Guard) for a period of 8 years must accept active duty for a period of 2 years, and upon the performance of such active duty may reduce his Ready Reserve service to a period which, when added to the time spent on active duty, shall total 5 years.

Section 208 (f) of the Armed Forces Reserve Act of 1952 already provides that persons may be transferred from the Ready Reserve to the Standby Reserve after having served on active duty in the Armed Forces and in an accredited training program of the Ready Reserve for a total of Active-plus-Reserve service of not less than 5 years, or any lesser period authorized by the appropriate Secretaries.

The following tabulation summarizes the years of Ready Reserve training which will entitle an individual to transfer to the Standby Reserve, for the various periods of active service.

Years of active service	Years of Ready Reserve participation	Standby Reserve obligation	Total
5 or more	None	3 or less	8.
4	1	3	8.
3	2	3	8.
2	3	3	8.
6-month trainees	7½	0	8.
0	Until age 28	0	9½ to 11.

New section 262. Authorizing direct enlistments in the Reserve components (other than the National Guard and Air National Guard) with requirement for an initial 3- to 6-month period of active duty for training

Existing law.—Under section 6 (c) (2) (A) of the Universal Military Training and Service Act, persons who have not attained age 18½

may be accepted for enlistment in units of the Army National Guard or Air National Guard. Persons accepted for such enlistment are thereafter deferred from induction as long as they serve satisfactorily or until they attain age 28.

Provisions of the Senate amendment.—The Senate amendment authorizes 8-year enlistments in the Reserve components (other than the guard) within quotas specifically provided for in annual appropriations made by the Congress subject to the individual agreeing to perform an initial period of active duty for training of not less than 3 months nor more than 6 months.

After completion of the period of initial training the individual is required satisfactorily to perform the training requirements imposed upon the Ready Reserve by other provisions of this bill.

Critical skills; deferment as reservists.—This paragraph of the bill also specifies that persons having critical skills and who are engaged in critical defense-supporting industries may enlist in the Reserve components and after performing the required 6 months of active-duty training serve out the remainder of the 8-year period of military obligation in a Reserve status.

Special provisions relating to those in the 3- to 6-month program.—This subsection also contains three numbered clauses which specify certain miscellaneous provisions which are applicable only to the trainees. They are discussed below.

Clause (1)—Pay of trainees.—This clause provides that while undergoing the 6 months' active duty for training persons shall be paid at the rate of $50 per month for the initial 6-month period, and for any period of hospitalization incident thereto.

Clause (2)—Disability retirement for trainees.—This clause provides that with respect to the provisions of the Career Compensation Act of 1949, relating to retirement pay, separation and severance pay for disability, persons undergoing the 6-month active duty for training shall be deemed to be serving in enlisted pay grade E–1 with under 4 months of service (the lowest enlisted pay grade).

Clause (3)—Disability and death benefits for trainees.—This clause provides that persons undergoing the active duty for training shall receive the benefits provided in Public Law 108 of the 81st Congress for sickness, injury, or death. Such persons shall be denied the conversion rights provided by section 621 of the National Service Life Insurance Act of 1940. The automatic indemnity coverage authorized by the Servicemen's Indemnity Act of 1951 is limited to 30 days after separation or release from the initial 6 months of active duty for training.

Benefits which do not accrue.—Inasmuch as persons enlisted in the Reserve and undergoing the period of active-duty training are not specifically authorized to receive the benefits indicated below, they would be excluded from such benefits:

Benefits of title V (mustering-out payment) of the Veterans Readjustment Assistance Act of 1952, or any other benefits under any laws administered by the Veterans' Administration, except the Servicemen's Indemnity Act of 1951, as amended, with respect to his initial 6 months of active duty for training.

Quarters allowances.

Benefits of the Dependents Assistance Act of 1950.

Incentive pay.

Veterans' preference.

Role of National Security Training Commission.—The National Security Training Commission is designated to act in an advisory capacity to the Secretary of Defense and the President with respect to the welfare of persons participating in the active duty for training authorized in this subsection.

As a practical matter, the size of the annual quotas would seem to have an important bearing on the manner in which the training program is conducted. If at the 100,000 minimum, such trainees might be integrated with new recruits training for the active forces, whereas if it is near the 250,000 ceiling it might become necessary to operate separate installations.

(f) Reemployment rights for trainees

Present law.—The 1951 amendments to the Selective Service Act of 1948 provide reemployment rights for enlistees, inductees, and reservists who are on active duty, and leave-of-absence rights for persons on training duty, such as the usual two-weeks summer encampment. There is no provision, however, for appropriate reemployment rights to be granted to persons enrolled in training programs contemplated by the amendments under consideration in this bill.

What the bill does.—This subsection of the bill therefore adds to section 9 of the Universal Military Training and Service Act authority whereby persons performing active duty for training for the period authorized in the bill would receive substantially the same reemployment rights as persons on active duty, except that they would be required to apply for reinstatement within 60 days from date of their release from training or date of release from hospitalization immediately following discharge, such period of hospitalization not to exceed 6 months, and, upon reinstatement by his employer, the trainees would be protected against discharge without cause for a period of only 6 months.

These provisions of the bill fit the trainee into the general pattern of reemployment rights guaranteed prior-service men and insure that such rights shall be commensurate with their period of duty. As an example, the bill provides that the trainees shall apply for reinstatement within 60 days from date of release from training; the comparable period for inductees and reservists on active duty is 90 days. Similarly, the 6-month trainee receives protection against discharge for a period of 6 months after he returns to his civilian position; the comparable period for inductees and reservists on active duty is 1 year.

As to the necessity of providing reemployment protection to individuals in the age group to be participating in the 6-month program, census figures show that in October 1954, 37.6 percent of the 16- and 17-year age group, 60 percent of the 18- and 19-year age group, and 76.7 percent of the 20- to 24-year age group had some kind of employment. It is noted that this will not be the only age group affected by the reemployment provisions. The group most affected will probably be the "critical skills" group engaged in defense-supporting industries and research.

The National Guard and the Air National Guard are not included in the provisions of this paragraph of the bill.

UNIVERSITY OF MICHIGAN LIBRARIES

New section 263. Enlistment bonus for reservists

This section provides a 2-year program for an enlistment bonus payable to certain prior-service men who are enlisted in certain Reserve units.

In such enlistment or assignment to a Reserve unit the individual would agree to serve satisfactorily in the unit, and to attend drills and active-duty training periods. In the event the individual fails satisfactorily to participate, as determined pursuant to regulations prescribed by the Secretary of Defense, such individual may be ordered to active duty for training for periods of 45 days annually during the unexpired term of his enlistment.

Individuals who have completed not less than 18 months of active service and who are currently serving voluntarily in Reserve units of the types herein under discussion could be discharged for the convenience of the Government under this program in the event they were willing to make the necessary agreement to serve, and provided they were qualified and acceptable under applicable screening criteria.

The period of enlistment would be 3 years.

The number of persons involved in this program would be controlled by annual appropriations.

The program would operate pursuant to regulations prescribed by the Secretary of Defense. Such regulations would insure that men would not be accepted for enlistment if they occupied critical positions in defense supported industries or were possessed of skills which would cause them to be screened out of the Reserve as being unusable in times of mobilization.

Summary of detailed provisions of Senate amendment

Only those persons who have honorably completed at least 18 months of active service are eligible for the program.

To be accepted into the program the individual must agree satisfactorily to participate in the training requirements and in the event he fails to participate satisfactorily, as determined pursuant to regulations prescribed by the Secretary of Defense, he shall be liable for active duty for training for periods of 45 days annually during the unexpired term of his enlistment.

Enlistees will be carefully screened to insure that persons who have critical skills or occupations which would render their discharge necessary in time of actual mobilization are not enlisted or reenlisted.

Only combat and combat-support units (as determined by the Secretary of the Army and the Secretary of the Navy) of the Reserve components of the Army and the Marine Corps would be included in the program.

Upon enlistment or assignment a bonus would be paid to the individual, if qualified and acceptable under applicable screening criteria.

The program would be limited to the numbers specifically provided for in annual appropriations.

The program is in addition to other enlistment and appointment programs currently in operation.

Persons currently serving enlistments in the Reserve could be discharged for the convenience of the Government and, if acceptable, enlisted under this program.

The program terminates July 1, 1957.

SECTION 3. AMENDMENTS TO THE UNIVERSAL MILITARY TRAINING AND SERVICE ACT

(a) *Authorizing direct enlistments in the Reserve components (other than the National Guard and Air National Guard) without specific requirement for either 2 years of active service or an initial period of 3–6 months of active duty for training*

Existing law.—Under section 6 (c) (2) (A) of the Universal Military Training and Service Act persons who have not attained age 18½ may be accepted for enlistment in units of the Army National Guard or Air National Guard. Persons accepted for such enlistment are thereafter deferred from induction as long as they serve satisfactorily or until they attain age 28. Considerably more than a half million persons have availed themselves of this program since its origin in 1948.

What the Senate amendment does.—The Senate amendment extends to the other Reserve components an enlistment program which is identical to that provided in existing law for the guard. The President, rather than the governors of the several States, makes the determination that the program is necessary. There is no cutoff date, and quotas are restricted to the numbers for which specific appropriation is made annually by the Congress.

Under clause (C) an individual is not obligated to perform any initial period of active duty for training such as that required of an individual who enlists in the Ready Reserve of a Reserve component under section 262 of the Armed Forces Reserve Act of 1952, as amended by the Senate amendment. Clause (D) provides authority under which an individual enlisted under clause (C) may voluntarily elect to perform the initial period of active duty for training required by section 262 of the Armed Forces Reserve Act of 1952, as so amended, and thereby shorten his period of obligatory Reserve service.

This section also provides that persons enlisted in the National Guard under the provisions of section 6 (c) (2) (A) may reduce their period of liability for induction from age 28 to a period of 8 years by satisfactorily participating in a period of active duty for training of not less than 3 months.

(E) *Providing priority in induction for persons who fail satisfactorily to carry out Reserve training to which obligated under this section*

This clause provides that where an individual has accepted enlistment under the provisions of this subsection and because of failure satisfactorily to participate in the required training has been discharged from such enlistment, he will be given priority over all others by his local board in meeting quotas for induction into the Armed Forces.

(b) *Graduates of Reserve Officers Training Corps and other officer training programs*

Background.—Section 6 (d) (1) of the Universal Military Training and Service Act provides that as a general proposition all persons participating in programs for the training of Reserve officers shall be deferred from induction provided they agree to accept a commission if tendered; to serve on active duty for a period of not less than 2 years after receipt of such commission; and to remain in the Reserve until the eighth anniversary of the receipt of such commission.

UNIVERSITY OF MICHIGAN LIBRARIES

ROTC programs are long-term.—The annual output of the Army and Air Force Reserve Officers Training Corps is geared to long-range mobilization requirements rather than to the immediate requirements of the active forces. This creates the potential problem of having more graduates available than the active forces can absorb during periods when there are no hostilities. This problem did not manifest itself during the period of the buildup of the active forces incident to the Korean hostilities, because the Army and Air Force needed and could absorb the entire output of the Reserve officers training program.

But upon the cessation of Korean hostilities the problem again arose, as the output of the Reserve Officers Training Corps program again exceeded the immediate needs of the active forces. As a consequence, some new graduates of the Air Force officer training program were not given their commissions outright but were first placed on duty in an enlisted status for the 24-month period of service required of inductees. There was widespread public criticism of this procedure.

What the bill does about it.—The bill amends section 6 (d) (1) of the Universal Military Training and Service Act to make it mandatory that upon graduation all qualified graduates of the courses be appointed as commissioned officers in the Reserve.

In addition, the bill requires that if the number of these newly appointed officers exceeds the existing requirements of the active forces, such officers shall be ordered to active duty for training for a period of 6 months instead of for extended active duty for service for a period of the 2 years required in their signed ROTC agreement referred to in clause (B) of section 6 (d) (1) of the Universal Military Training and Service Act, as amended by the 1951 amendments to the Selective Service Act of 1948.

Upon completion of such 6-month period of active duty for training these officers shall be released from such active duty for training and thereafter shall be required satisfactorily to serve in the component in which appointed until the eighth anniversary of the commencement of such 6-month period of active duty for training. The bill requires the Secretary of Defense to develop the standards and to publish the regulations necessary to insure compliance with this requirement of satisfactory Reserve service and specify that failure to meet such standards will result in revoking the individual's Reserve commission.

The bill makes no provision whereby these officers may shorten their 7½-year Ready Reserve obligation by participating in Reserve training programs.

Budget Data—Department Recommendation

As has been previously indicated in this report, the President's National Reserve Plan was strongly recommended by the administration. The bill in its present form does not contain all of the provisions which were included in the original departmental recommendations, but provides in substantial measure additional authority needed for the strengthening of the Reserve components.

The estimated cost of the legislation in fiscal year 1959 as compared with fiscal year 1955 is shown below.

The following has been prepared to show the 4 areas where the estimated costs for training the reserves will increase from $710 million

appropriated in fiscal year 1955 to an estimated obligation in fiscal year 1959 of $1,928 million.

(*a*) The number of reservists in a drill-pay status, that is, those attending periodic drills plus 2 weeks training annually, increases from an estimated 838,000 on June 30, 1955, to 1,716,000 on June 30, 1959. On a per capita cost basis this will require about $871 million over that appropriated in fiscal year 1955 for such training.

Estimated number of reservists in drill-pay, in thousands

	Army	Navy	Marine Corps	Air Force	Total
End fiscal year 1955	554	149	35	100	838
End fiscal year 1959	1,158	205	81	272	1,716

(*b*) The number of reservists who are expected to attend 15 to 30 days annual training only, increases from 20,750 during fiscal year 1955 to 340,000 during fiscal year 1959. On a per capita cost basis this will require $98 million over that appropriated in fiscal year 1955 for such training.

Estimated number of reservists annual training only, in thousands

	Army	Navy	Marine Corps	Air Force	Total
Fiscal year 1955	----	13	5	3	21
Fiscal year 1959	89	54	164	33	340

(*c*) There are no reservists in a 6-month training program in fiscal year 1955. The estimated costs for training 100,000 in such a program in fiscal year 1959 is $177 million.

(*d*) The increase in costs due to the increase in pay for reservists authorized by the Career Incentive Act of 1955 can be absorbed within funds available for fiscal year 1955. The estimated increase in cost in fiscal year 1959 due to the Career Incentive Act is $72 million.

SUMMARY

The effects of the above increases over that appropriated in fiscal year 1955 are tabulated below:

(a) Increase in pay drill	$871, 000, 000
(b) Increase in annual training	98, 000, 000
(c) 6-month training program	177, 000, 000
(d) Career Incentive Act	72, 000, 000
Total	1, 218, 000, 000
Appropriated in fiscal year 1955	710, 000, 000
Estimated cost in fiscal year 1959	1, 928, 000, 000

The following table shows the projected Ready Reserve by training status.

UNIVERSITY OF MICHIGAN LIBRARIES

[In thousands]

Service	June 30—			
	1956	1957	1958	1959
Department of Defense, total	1,563	1,936	2,218	2,563
Pay drill	1,030	1,239	1,445	1,716
Annual only	57	291	316	340
No drill	476	406	457	507
Army, total	929	1,089	1,250	1,482
Pay drill	665	805	946	1,158
Annual only	29	49	69	89
No drill	235	235	235	235
Navy, total	313	380	452	531
Pay drill	171	181	194	205
Annual only	20	28	36	54
No drill	122	171	222	272
Marine Corps, total	174	210	243	245
Pay drill	51	60	70	81
Annual only	4	150	173	164
No drill	119	----	----	----
Air Force, total	147	257	273	305
Pay drill	143	193	235	272
Annual only	4	64	38	33
No drill	----	----	----	----

Changes in Existing Law

In compliance with subsection 4 of rule XXIX of the Standing Rules of the Senate, there is printed herewith in roman type existing law in which no change is proposed; existing law proposed to be omitted is enclosed in black brackets, and new matter is printed in italics:

ARMED FORCES RESERVE ACT OF 1952

SEC. 205. (a) The Ready Reserve consists of those units or members of the reserve components, or both, who are liable for active duty either in time of war, in time of national emergency declared by the Congress or proclaimed by the President, or when otherwise authorized by law.

(b) The authorized aggregate personnel strength of the Ready Reserve shall not exceed a total of [one million five hundred thousand] *two million nine hundred thousand*.

SEC. 208. (a) Each person required to serve in a reserve component pursuant to law, shall, upon becoming a member of a reserve component, be placed in the Ready Reserve of his Armed Force for the remainder of his required term of service unless eligible for transfer to the Standby Reserve under subsection (f) of this section.

(b) Any member of the reserve components in an active status on the effective date of this Act may be placed in the Ready Reserve.

(c) All units and members of the National Guard of the United States and Air National Guard of the United States shall be in the Ready Reserve of the Army and the Air Force, respectively.

(d) All members of the reserve components assigned to units organized for the purpose of serving as such, which are designated as units in the Ready Reserve, shall be in the Ready Reserve.

(e) Subject to such regulations as the appropriate Secretary may prescribe, any member of the reserve components may, at any time upon his request, be placed in the Ready Reserve if qualified.

(f) Except as specifically provided by regulations prescribed by the Secretary of Defense (or the Secretary of the Treasury with respect to the United States Coast Guard), each person inducted, enlisted, or appointed in any armed force of the United

States under any provision of law after the date which is thirty days after the date of enactment of the Reserve Forces Act of 1955 who becomes a member of the Ready Reserve, by reason of any provision of law other than section 208 (c) of this Act, shall be required, while a member of the Ready Reserve, to (1) participate in not less than forty-eight scheduled drills or training periods and to perform not more than seventeen days of active duty for training, during each year, or (2) perform annually not more than thirty days of active duty for training. Any such member of the Ready Reserve (except any member enlisted therein under section 6 (c) (2) (C) of the Universal Military Training and Service Act) who in any year fails to perform such training duty satisfactorily, as determined by the appropriate Secretary pursuant to regulations prescribed by the Secretary of Defense, may be ordered, without his consent, to perform additional active duty for training for not more than forty-five days. If such failure occurs during the final year of any period of obligatory membership in the Ready Reserve, such membership shall be extended for such time, not exceeding six months, as may be required for the performance by such member of such additional active duty for training.

[(f)] *(g)* Except in time of war or national emergency hereafter declared by the Congress, any member of the reserve components who is not serving on active duty in the Armed Forces of the United States shall, upon his request, be transferred to the Standby Reserve for the remainder of his term of service—

(1) if he has served on active duty in the Armed Forces of the United States for not less than a total of five years;

(2) if, having served on active duty in the Armed Forces of the United States for a total of less than five years, he has satisfactorily participated, as determined by the appropriate Secretary, in an accredited training program in the Ready Reserve for a period which when added to his period of active duty in the Armed Forces of the United States totals not less than five years or such lesser period of time as the appropriate Secretary (with the approval of the Secretary of Defense in the case of a Secretary of a Military Department) may prescribe in the case of satisfactory participation in such accredited training programs as the appropriate Secretary may designate;

(3) if he has served on active duty in the Armed Forces of the United States for not less than twelve months between December 7, 1941, and September 2, 1945, and, in addition thereto, has served on active duty in the Armed Forces of the United States for not less than twelve months subsequent to June 25, 1950; or

(4) if he has served as a member of one or more reserve components subsequent to September 2, 1945, for not less than eight years.

[(g)] *(h)* No member of the National Guard of the United States or Air National Guard of the United States shall be transferred to the Standby Reserve without the consent of the governor or other appropriate authority of the State, Territory, or District of Columbia concerned.

[(h)] *(i)* Subsection (f) of this section shall not apply to any member of the reserve components in the Ready Reserve while serving under an agreement to remain therein for a stated period.

[(i)] *(j)* Subject to subsection (g) of this section, any member of the reserve components in the Ready Reserve may be transferred into the Standby Reserve, or into the Retired Reserve if qualified and if he makes application therefor, in accordance with such regulations as the appropriate Secretary (with the approval of the Secretary of Defense in the case of a Secretary of a Military Department) may prescribe.

(k) Under regulations prescribed by the President, each Armed Force of the United States shall provide a system of continuous screening of units and members of the Ready Reserve to insure that—

(1) no significant attrition will occur to those members or units during a mobilization;

(2) there will be a proper balance of military skills;

(3) members of the Reserve forces possessing critical civilian skills will not be retained in numbers beyond the requirements for those skills except for persons who have military skills for which there is an overriding requirement;

(4) with due respect to national security and military requirements, recognition is given to participation in combat; and

(5) members of the Reserve Forces whose mobilization in an emergency would result in extreme personal or community hardship are not retained in the Ready Reserve.

UNIVERSITY OF MICHIGAN LIBRARIES

(l) Under regulations prescribed by the Secretary of Defense (or the Secretary of the Treasury for the Coast Guard), any member of the Standby Reserve who has not completed his obligated period of military service in the Ready Reserve may be transferred to the Ready Reserve whenever the reason for his transfer to the Standby Reserve no longer exists.

SEC. 233. (a) In time of war or national emergency hereafter declared by the Congress, or when otherwise authorized by law, any unit and the members thereof, or any member not assigned to a unit organized for the purpose of serving as such, of any reserve component may, by competent authority, be ordered to active duty for the duration of the war or national emergency and for six months thereafter, but members on an inactive status list or in a retired status shall not be ordered to active duty without their consent unless the appropriate Secretary (with the approval of the Secretary of Defense in the case of a Secretary of a Military Department) determines that adequate numbers of qualified members of the reserve components in an active status or in the inactive National Guard in the required category are not readily available. *No member of the Standby Reserve may be ordered to active duty under this subsection until the Director of Selective Service has determined that such member is available for active duty.*

(b) (1) In time of national emergency hereafter proclaimed by the President or when otherwise authorized by law, any unit and the members thereof, or any member not assigned to a unit organized for the purpose of serving as such, in the Ready Reserve of any reserve component may, by competent authority, be ordered to and required to perform active duty involuntarily for a period not to exceed twenty-four consecutive months: [*Provided*, That Congress shall determine the number of members of the reserve components necessary for the national security to be ordered to active duty, pursuant to this subsection prior to the exercise of the authority contained in this subsection.] *Provided, That not more than one million members of the Ready Reserve of all reserve components may be required to perform active duty involuntarily at any time unless the Congress shall have authorized the exercise of the authority contained in this subsection with respect to a larger number.*

* * * * * * *

(h) Under such regulations as the Secretary of Defense shall prescribe any person who, while a member of a reserve component, becomes a regular or duly ordained minister of religion shall be entitled upon his request to a discharge from the reserve component of which he is a member. No member of any reserve component shall be required to serve on active duty, or to participate in active training and service, active duty for training, or inactive duty training, while preparing for the ministry in a recognized theological or divinity school.

* * * * * * *

CHAPTER 7 OF PART II

SEC. 260. (a) Under such regulations as the Secretary of Defense shall prescribe, each military department of the Department of Defense shall cause to be prepared and maintained an accurate record of the number of members of each class of each reserve component who during each fiscal year have satisfactorily participated in (1) active duty for training, and (2) inactive duty training with pay.

(b) In January of each year the Secretary of Defense shall transmit to the President and to the Congress a report which shall contain an account of the status of training of each reserve component of the Armed Forces, and the progress made in the strengthening of the reserve components, during the preceding fiscal year.

CHAPTER 8—SPECIAL ENLISTMENT PROGRAMS

SEC. 261. (a) Under such regulations as the appropriate Secretary shall prescribe, any person who is qualified for enlistment for active duty in the Army, Navy, Marine Corps, Air Force, or Coast Guard, and who has not been ordered to report for induction into the Armed Forces under the Universal Military Training and Service Act, may be enlisted in the Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, or Coast Guard Reserve, respectively, pursuant to the provisions of this section.

(b) Each enlistment under this section shall be for a period of eight years. Each person so enlisted shall be required during such enlistment to perform—

(1) active duty for a period of two years;

(2) satisfactory service as a member of the Ready Reserve for a period which, when added to service rendered under paragraph (1), will total five years; and

(3) the remainder of such period of enlistment as a member of the Standby Reserve.

SEC. 262. (a) Until August 1, 1959, whenever the President determines that the enlisted strength of the Ready Reserve of the Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, or Coast Guard Reserve cannot be maintained at the level which he determines to be necessary in the interest of national defense, he may authorize the acceptance of enlistments in organized units of such Ready Reserve pursuant to the provisions of this section under regulations prescribed by the Secretary of Defense. Enlistments under this section may be accepted only within quotas prescribed by the appropriate Secretary with the approval of the Secretary of Defense and specifically provided for in annual appropriations made by the Congress. No enlistment shall be accepted under this section in the Ready Reserve of any reserve component if such enlistment would cause the strength of such Ready Reserve to exceed the authorized strength of such Ready Reserve.

(b) Enlistments under this section may be accepted from persons who—

(1) are qualified for induction;

(2) have not been ordered to report for induction into the Armed Forces under the Universal Military Training and Service Act; and

(3) have not attained the age of twenty years.

In addition, the President, under such rules and regulations as he may prescribe, may authorize the enlistment under this section, without regard to the provisions of paragraph (3), of persons who fulfill the requirements of paragraphs (1) and (2) and who have critical skills and are engaged in civilian occupations in any critical defense-supporting industry or in any research activity affecting national defense.

(c) Each enlistment under this section shall be for a period of eight years. Each person so enlisted shall be required during such enlistment (1) to perform an initial period of active duty for training of not less than three months or more than six months, and (2) thereafter to perform satisfactorily all annual training duty prescribed by section 208 (f) of this Act, except that persons specially enlisted because of their having possession of critical skills may be relieved of any obligation to perform the annual training duty prescribed by section 208 (f), and upon the completion of eight years of such satisfactory service pursuant to such enlistment be exempt from further liability for induction for training and service under such Act, except after a declaration of war or national emergency made by the Congress after the date of enactment of this subsection. Each such person shall be deferred from training and service under the Universal Military Training and Service Act, as amended, so long as he continues to serve satisfactorily, as determined by regulations prescribed by the appropriate Secretary.

(d) Notwithstanding any other provision of law, any person performing an initial period of active duty for training under this section shall—

(1) during such period, and during any period of hospitalization incident to the performance of such duty, receive pay at the rate of $50 per month;

(2) be deemed to be serving in pay grade E-1 (under four months) for the purpose of determining his eligibility to receive allowances for subsistence or for travel and transportation, or to receive any benefit under title IV of the Career Compensation Act of 1949, as amended; and

(3) be deemed to be a member of a reserve component called or ordered into active service for extended service in excess of thirty days for the purpose of determining eligibility for any benefit made available to members of reserve components by the Act entitled "An Act to provide for members of the reserve components of the Armed Forces who suffer disability or death from injuries incurred while engaged in active-duty training for periods of less than thirty days or while engaged in active-duty training", approved June 20, 1949 (63 Stat. 201), except that (A) no such person shall be entitled to any benefit under section 621 of the National Service Life Insurance Act of 1940, as amended, and (B) the indemnity accorded to such person under the Servicemen's Indemnity Act of 1951, as amended, shall terminate thirty days after the release of such person from such initial period of active-duty training.

Except as specifically provided by this subsection, no person shall become entitled, by reason of his performance of an initial period of active duty for training under this section, to any right, benefit, or privilege provided by law for persons who have performed active duty in the Armed Forces.

(e) The National Security Training Commission shall advise the President and the Secretary of Defense, and shall report annually to the Congress, with respect to the welfare of persons performing initial periods of active duty for training under this section, but shall have no authority with respect to the military training of such persons during such periods.

(f) Any person who completes satisfactorily the initial period of active duty for training required of him under any enlistment pursuant to this section shall be entitled,

UNIVERSITY OF MICHIGAN LIBRARIES

upon application for reemployment within sixty days after (A) his release from such required initial period of active duty for training after satisfactory completion thereof, or (B) his discharge from hospitalization incident to such duty continuing after such release for a period of not more than six months, to all reemployment rights and benefits provided by section 9 of the Universal Military Training and Service Act for individuals inducted under the provisions of such Act, except that (1) any person so restored to a position in accordance with the provisions of this section shall not be discharged from such position without cause within six months after such restoration, and (2) no reemployment rights granted by this subsection shall entitle any person to retention, preference, or displacement rights over a veteran with a superior claim under the Veterans Preference Act of 1944, as amended.

SEC. 263. (a) Within quotas prescribed by the appropriate Secretary with the approval of the Secretary of Defense and specifically provided for in annual appropriations made by the Congress, each person who has been honorably released from active duty of not less than eighteen months' duration in the Armed Forces of the United States, and who, before July 1, 1957, is accepted in conformity with regulations prescribed by the appropriate Secretary for assignment or enlistment under this section as an enlisted member of an organized combat unit of the Ready Reserve of the Army or Marine Corps for a period of three years, shall be entitled to receive a bonus in an amount equal to the monthly basic pay to which such person would be entitled for two months' service on active duty in the grade in which he is so assigned or enlisted.

(b) Under such regulations as the appropriate Secretary shall prescribe, any individual who on the date of enactment of this section is serving under an enlistment entered into under any other provision of law in an active unit of the Ready Reserve which is designated under this section as an organized combat unit, may be discharged therefrom for the convenience of the Government for the purpose of reenlistment in such unit under the provisions of this section.

(c) No assignment or enlistment may be accepted under this section in the Ready Reserve of any reserve component if such assignment or enlistment would cause the strength of such Ready Reserve to exceed the authorized strength of such Ready Reserve. No member of the National Guard of the United States or the Air National Guard of the United States may be assigned, enlisted, discharged, or ordered to active duty for training under this section without the consent of the governor or other appropriate authority of the State, Territory, or District of Columbia concerned.

(d) Any enlisted member of any such organized combat unit who, during any year of any period of assignment or enlistment for which he has received a bonus under this section, fails to perform satisfactorily all training duties prescribed for members of such unit, and whose failure is not excused under regulations prescribed by the appropriate Secretary, may be ordered, without his consent, to perform additional active duty for training for not more than forty-five days. If such failure occurs during the third year of any such period of assignment or enlistment, such assignment or enlistment shall be extended for such time, not exceeding six months, as may be required for the performance of such additional active duty for training by such member.

(e) As used in this section, the term "organized combat unit" means a unit so designated by the appropriate Secretary whose members are trained for combat or combat-support service and are required to perform satisfactorily annual training duty equal to that prescribed under section 208 (f) of this Act.

UNIVERSAL MILITARY TRAINING AND SERVICE ACT, AS AMENDED

(Public Law 118, 84th Congress)

* * * * * * *

SEC. 6 (c) (2) (A) In any case in which the Governor of any State determines and issues a proclamation to the effect that the authorized strength of any organized unit of the National Guard of his State cannot be maintained by the enlistment or appointment of persons referred to in subsection 6 (b) (2) or persons who are not liable for training and service under this title, any person who prior to attaining the age of eighteen years and six months, prior to the determination by the Secretary of Defense that adequate trained personnel are available to the National Guard to enable it to maintain its strength authorized by current appropriations, and prior to the issuance of orders for him to report for induction, enlists or accepts appointment in any such organized unit shall be deferred from training and service under this title so long as he continues to serve satisfactorily as a member of such organized unit. No person who has or may be deferred under the

provisions of this clause shall by reason of such deferment be liable for training and service in the Armed Forces by reason of the provisions of subsection (h) hereof after he has attained the twenty-eighth anniversary of the date of his birth. *No such person who has completed eight years of satisfactory service as a member of an organized unit of the National Guard, and who during such service has performed active duty for training with an Armed Force for three consecutive months, shall be liable for induction for training and service under this Act, except after a declaration of war or national emergency made by the Congress after the date of enactment of the Reserve Forces Act of 1955.*

(B) Except as provided in subsection (b), paragraph (1) of this subsection, [or clause (A)] *or clause (A), or clause (C), or clause (D)* of this paragraph, no person who shall become a member of a reserve component after the effective date of this title shall thereby be exempt from registration or training and service by induction under the provisions of this title.

(C) Whenever the President determines that the enlisted strength of the Ready Reserve of the Army Reserve, Naval Reserve, Marine Corps Reserve, Air Force Reserve, or Coast Guard Reserve cannot be maintained at the level which he determines to be necessary in the interest of national defense, he may authorize the acceptance of enlistments in organized units of such Ready Reserve under regulations prescribed by the Secretary of Defense. Enlistments authorized by this clause may be accepted only (i) within quotas prescribed by the Secretary of the military department concerned and specifically provided for in annual appropriations made by the Congress, and (ii) from persons who have not been ordered to report for induction under this Act and who have not attained the age of eighteen years and six months. Any person so enlisted shall be deferred from training and service under this Act so long as he continues to serve satisfactorily as a member of an organized unit of such Ready Reserve. No person deferred under the provisions of this clause shall by reason of such deferment be liable for training and service in the Armed Forces by reason of subsection (h) of this section after he has attained the twenty-eighth anniversary of the date of his birth.

(D) Within the quotas prescribed pursuant to section 262 of the Armed Forces Reserve Act of 1952, as amended, each person deferred pursuant to the provisions of clause (C) hereof may volunteer to perform a period of active duty for training as provided by and subject to the provisions of such section. No such person who has completed eight years of satisfactory service as a member of an organized unit of the Ready Reserve, and who during such service has performed active duty for training for a period of not less than three months or more than six months, shall be liable for induction for training and service under this Act, except after a declaration of war or national emergency made by the Congress after the date of enactment of this clause.

(E) Notwithstanding any other provision of this Act, the President, under such rules and regulations as he may prescribe, may provide that any person enlisted or appointed in the Ready Reserve of any reserve component of the Armed Forces pursuant to authority conferred by this subsection or under section 262 of the Armed Forces Reserve Act of 1952, as amended, who fails to serve satisfactorily as a member of such Ready Reserve may be selected for training and service and inducted into the armed force of which such reserve component is a part, prior to the selection and induction of other persons liable therefor.

6. (d) OFFICERS' TRAINING; DEFERMENT OF STUDENTS AUTHORIZED.—(1) Within such numbers as may be prescribed by the Secretary of Defense, any person who (A) has been or may hereafter be selected for enrollment or continuance in the senior division, Reserve Officers' Training Corps, or the Air Reserve Officers' Training Corps, or the Naval Reserve Officers' Training Corps, or the naval and Marine Corps officer candidate training program established by the Act of August 13, 1946 (60 Stat. 1057), as amended, or the Reserve officers' candidate program of the Navy, or the platoon leaders' class of the Marine Corps, or the officer procurement programs of the Coast Guard and the Coast Guard Reserve, or appointed an ensign, United States Naval Reserve, while undergoing professional training; (B) agrees in writing to accept a commission, if tendered, and to serve, subject to order of the Secretary of the military department having jurisdiction over him (or the Secretary of the Treasury with respect to the United States Coast Guard), not less than two years on active duty after receipt of a commission; and (C) agrees to remain a member of a regular or reserve component until the eighth anniversary of the receipt of a commission in accordance with his obligation under subsection (d) of section 4 of this title, shall be deferred from induction under this title until after completion or termination of the course of instruction and so long as he continues in a regular or reserve status

UNIVERSITY OF MICHIGAN LIBRARIES

upon being commissioned, but shall not be exempt from registration. Such persons, except those persons who have previously completed an initial period of military training or an equivalent period of active military training and service, shall be required while enrolled in such programs to complete a period of training equal (as determined under regulations approved by the Secretary of Defense or the Secretary of the Treasury with respect to the United States Coast Guard) in duration and type of training to an initial period of military training. There shall be added to the obligated active commissioned service of any person who has agreed to perform such obligatory service in return for financial assistance while attending a civilian college under any such training program a period of not to exceed one year. *Upon the successful completion by any person of the required course of instruction under any program listed in clause (A) of the first sentence of this paragraph, such person shall be tendered a commission in the appropriate reserve component of the Armed Forces if he is otherwise qualified for such appointment. If, at the time of such appointment, the armed force in which such person is commissioned does not require his service on active duty in fulfillment of the obligation undertaken by him in compliance with clause (B) of the first sentence of this paragraph, such person shall be ordered to active duty for training with such armed force in the grade in which he was commissioned for a period of six months. Upon completion of such period of active duty for training, such person shall be returned to inactive duty and shall be assigned to an appropriate reserve unit until the eighth anniversary of the receipt of a commission pursuant to the provisions of this section. So long as such person performs satisfactory service in such unit, as determined under regulations prescribed by the Secretary of Defense, he shall be deferred from training and service under the provisions of this Act. If such person fails to perform satisfactory service in such unit, and such failure is not excused under regulations prescribed by the Secretary of Defense, his commission may be revoked by the Secretary of the military department concerned."*

○

UNIVERSITY OF MICHIGAN LIBRARIES

Calendar No. 849

84TH CONGRESS, 1st Session } SENATE { REPORT No. 841

AMENDING THE ACT EXTENDING THE EXTERIOR BOUNDARY OF THE UINTAH AND OURAY INDIAN RESERVATION IN THE STATE OF UTAH SO AS TO AUTHORIZE SUCH STATE TO EXCHANGE CERTAIN MINERAL LANDS FOR OTHER LANDS MINERAL IN CHARACTER

JULY 13, 1955.—Ordered to be printed

Mr. WATKINS, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany S. 878]

The Committee on Interior and Insular Affairs, to whom was referred the (S. 878) to amend the act extending the exterior boundary of the Uintah and Ouray Indian Reservation in the State of Utah so as to authorize such State to exchange certain mineral lands for other lands mineral in character, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

EXPLANATION OF THE BILL

The purpose of S. 878 is to authorize the State of Utah to exchange State-owned mineral lands lying within the exterior boundaries of the Uintah and Ouray Indian Reservation for mineral-bearing public-domain lands outside the reservation boundaries.

The act of March 11, 1948 (62 Stat. 72), defined the exterior boundary of the Uintah and Ouray Reservation. Section 3 of the act authorized the State of Utah to relinquish to the United States for the benefit of the Indians any State-owned lands within the reservation boundary and to select in lieu thereof nonmineral lands of equal value outside the exterior boundary. The State may reserve to itself any minerals underlying the lands relinquished in the exchange.

Enactment of S. 878 would amend section 3 of the 1948 act to permit the State to select vacant, unappropriated mineral lands and the minerals therein if the lands relinquished by the State on the reservation are mineral in character and if the rights to the minerals in such lands are also relinquished.

This exchange of State-owned lands within the reservation for public land outside the reservation will help to consolidate in Indian ownership the lands within the reservation.

The bill also protects any valid rights and claims initiated under Federal law with respect to any public lands which the State of Utah may select.

The favorable reports of the Department of the Interior and the Bureau of the Budget recommending enactment of this legislation follow:

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington 25, D. C., June 6, 1955.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington 25, D. C.

MY DEAR SENATOR MURRAY: Your committee has requested a report on S. 878, a bill to amend the act extending the exterior boundary of the Uintah and Ouray Indian Reservation in the State of Utah so as to authorize such State to exchange certain mineral lands for other lands mineral in character.

We recommend that the bill be enacted.

The act of March 11, 1948 (62 Stat. 72), defined the exterior boundary of the Uintah and Ouray Indian Reservation in the State of Utah that was established for the benefit of the Ute Indian Tribe. Section 3 of the act authorized the State to relinquish to the United States for the benefit of the Indians any State-owned lands within the defined exterior boundary and to select in lieu thereof nonmineral lands of equal value, as determined by the Secretary of the Interior, outside the exterior boundary. The State may reserve to itself any minerals underlying the lands relinquished in the exchange.

The bill amends section 3 of the 1948 act to allow the State to select vacant, unappropriated mineral lands and the minerals therein if the lands relinquished by the State are mineral in character and if the rights to the minerals in such lands are also relinquished. It also protects any valid rights and claims initiated under Federal law with respect to any lands so selected.

The exchange of State-owned lands inside the boundary of the reservation for public land outside the boundary of the reservation will help to consolidate in Indian ownership the lands within the reservation boundary, and the policy to permit such consolidation is established by the 1948 act. Under the present law, however, if the State-owned lands are mineral in character the State must either reserve the minerals when exchanging its lands for nonmineral lands outside the reservation, or select nonmineral lands that are equal in value to the mineral lands relinquished. The first alternative involves the disadvantage of retaining State ownership of minerals underlying Indian lands, which may not return their full value to the State. The second alternative unnecessarily restricts the exchange authority by requiring the selection of nonmineral lands in exchange for mineral lands.

The enactment of the bill may involve some additional expense to the Government, but the amount cannot be estimated. Under the 1948 act, it is not necessary for the Department to appraise the value of any minerals if the minerals in the State-owned lands are reserved by the State. Under the bill, the Department will need to appraise the value of any minerals in the State-owned lands and the value of the minerals in the public lands that are selected for exchange. In addition to such appraisals, the Department may need to determine the validity of mining claims that are in conflict with State selections. Because of the current uranium interest in Utah, it is probable that the State may select some public mineral lands that are covered by mining claims and, in such event, the validity of the claims will need to be determined because if they are valid the lands wil not be unappropriated lands available for selection by the State.

The Bureau of the Budget has advised us that there is no objection to the submission of this report to your committee.

Sincerely yours,

FRED G. AANDAHL,
Acting Secretary of the Interior.

UNIVERSITY OF MICHIGAN LIBRARIES

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington 25, D. C., May 31, 1955.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington 25, D. C.

MY DEAR MR. CHAIRMAN: This is in response to your request for the views of the Bureau of the Budget with respect to S. 878, to amend the act extending the exterior boundary of the Uintah and Ouray Indian Reservation in the State of Utah so as to authorize such State to exchange certain mineral lands for other lands mineral in character.

If enacted this bill would permit the State of Utah to exchange State-owned mineral lands lying within the boundaries of the Uintah and Ouray Indian Reservation for mineral-bearing public domain lands outside the reservation boundaries. The present law permits the State to exchange its holdings within the reservation boundaries only for nonmineral lands outside with the provision that it may retain mineral rights in the lands thus relinquished.

The bill contains provisions safeguarding the rights and claims initiated under the Federal law to minerals on any public domain lands selected by the State for exchange.

In a report he is submitting to your committee on this measure, the Secretary of the Interior indicates that enactment of the bill would facilitate the consolidation of Indian-owned lands within the reservation.

You are advised that the Bureau of the Budget concurs in views expressed by the Secretary of the Interior and recommends that the bill be enacted.

Sincerely yours,

DONALD R. BELCHER,
Assistant Director.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill (S. 878), as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman).

ACT OF MARCH 11, 1948 (62 STAT. 72)

* * * * * * *

SEC. 3. [The State of Utah may relinquish to the United States for the benefit of the Indians of the said Ute Reservation such tracts of school or other State-owned lands, surveyed or unsurveyed, within the said reserved area, as it may see fit, reserving to said State, if it so desires, such rights as it may possess to any minerals underlying such State lands as may be relinquished, and said State shall have the right to make selections in lieu thereof outside of the area hereby withdrawn, equal in value, as determined by the Secretary of the Interior, to the lands relinquished, from the vacant, unappropriated, nonmineral public lands, within the State of Utah, such lieu selections to be made in the manner provided in the enabling Act pertaining to said State, except as to the payment of fees or commissions, which are hereby waived.]

The State of Utah may relinquish to the United States for the benefit of the Indians of the said Ute Reservation such tracts of school or other State-owned lands, surveyed or unsurveyed, within the said reserved area, as it may see fit (reserving to said State, if it so desires, such rights as it may possess to any minerals underlying such State lands as may be relinquished), and said State shall have the right to make selections, including mineral lands and the minerals therein (including oil and gas) if the lands relinquished are mineral in character and rights to the minerals in such lands are relinquished along with the lands, in lieu thereof outside of the area hereby withdrawn, equal in value, as determined by the Secretary of the Interior, to the lands relinquished, from the vacant, unappropriated public lands, within the State of Utah, such lieu selections to be made in the manner provided in the enabling Act pertaining to said State, except as to the payment of fees or commissions, which are hereby waived. Valid rights and claims of individuals initiated under Federal law with respect to any lands so selected and prior to such selection shall not be affected by such selection.

The value of improvements owned by the State on lands relinquished to the United States for the benefit of said Indians shall be taken into consideration and full credit in the form of lands shall be allowed therefor. Any funds now or hereafter on deposit in the United States Treasury to the credit of the Ute Indian Tribe of the Uintah and Ouray Reservation, Utah, are hereby made available, and with the consent of the Uintah and Ouray Tribal Business Committee, may be expended for the purchase of privately owned and State-owned lands, including the improvements thereon, and improvements heretofore placed on public lands, together with water rights and water holes, within said boundary. The title to lands purchased under this authorization may, in the discretion of the Secretary of the Interior, be taken for the surface only. Title to any lands and rights acquired hereunder shall be taken in the name of the United States in trust for the Ute Indian Tribe of the Uintah and Ouray Reservation, Utah, and such lands or rights shall be exempt from State or local taxation.

* * * * * * *

○

UNIVERSITY OF MICHIGAN LIBRARIES

Calendar No. 850

84TH CONGRESS, 1st Session | SENATE | REPORT No. 842

MODIFYING THE ACTS OF AUGUST 12, 1935 (49 STAT. 571, 584), MAY 15, 1936 (49 STAT. 1274), JULY 1, 1946 (60 STAT. 357), AUGUST 8, 1946 (60 STAT. 923), AND JUNE 30, 1947 (61 STAT. 211), WITH RESPECT TO THE RECOUPMENT OF CERTAIN PUBLIC SCHOOL CONSTRUCTION COSTS, AND TO AMEND THE ACT OF AUGUST 17, 1950 (64 STAT. 459), RELATING TO THE EXPENDITURE OF FUNDS FOR COOPERATING WITH THE PUBLIC SCHOOL BOARD OF WALKER, MINN.

JULY 13, 1955.—Ordered to be printed

Mr. O'MAHONEY, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H. R. 3123]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 3123) to modify the acts of August 12, 1935 (49 Stat. 571, 584), May 15, 1936 (49 Stat. 1274), July 1, 1946 (60 Stat. 357), August 8, 1946 (60 Stat. 923), and June 30, 1947 (61 Stat. 211) with respect to the recoupment of certain public school construction costs, and to amend the act of August 17, 1950 (64 Stat. 459) relating to the expenditure of funds for cooperating with the public school board of Walker, Minn., having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

EXPLANATION OF THE BILL

The act of August 12, 1935 (49 Stat. 581, 584) appropriated funds for cooperation with certain public-school districts in the States of Montana, Washington, South Dakota, and California for the construction and improvement of school facilities for the education of Indian children. Under the terms of the act, the following recoupment provision is included:

> Any amount expended on any project hereunder shall be recouped by the United States within a period of thirty years, commencing with the date of occupancy of the project, through reducing the annual Federal tuition payments for the education of Indian pupils enrolled in public or high schools of the district involved, or by the acceptance of Indian pupils in such schools without cost to the United States; and in computing the amount of recoupment for each project interest at 3 per centum shall be included in unrecouped balances.

Similar recoupment provisions were incorporated in the acts of May 15, 1936 (49 Stat. 1274), July 1, 1946 (60 Stat. 357), August 8, 1946 (60 Stat. 923), and June 30, 1947 (61 Stat. 211), which authorized or appropriated funds for cooperation with public-school districts in the States of Arizona and Wisconsin, and additional districts in Montana and Washington.

The recoupment provisions represented the Federal policy that existed at the time with respect to financial assistance to public-school districts which included federally owned tax-exempt areas. The Federal assistance was based on the fact that the areas of nontaxable Indian land resulted in insufficient bonding capacity to permit the school districts to raise adequate funds to provide necessary school facilities. The recoupment provision was based on the fact that the United States also made annual contributions to the school districts under the Johnson-O'Malley Act (25 U. S. C. 452–455) to defray part of the operating costs of schools attended by Indian children, and the double contribution was regarded as unjustified despite the fact that one related to construction and the other related to operation.

Pursuant to these acts a total of $999,939.28 has been expended. Recoupment has been effected as of June 30, 1954, in the amount of $470,141.38, leaving a balance due of $528,797.90.

In recent years, Federal policy with respect to financial assistance for school construction has materially changed. Legislation enacted in the 81st Congress (Public Law 815, 64 Stat. 967), as amended by Public Law 246, 83d Congress (67 Stat. 522), authorized a systematic program of Federal assistance for school construction in areas in which the impact of Federal activities has created an undue financial burden on local school districts. Under this act repayment is not required.

As a result of this change in Federal policy, Congress in 1954 canceled recoupment requirements applicable to school districts in Minnesota and in Klamath County, Oreg. (act of August 31, 1954, 68 Stat. 999; and the act of August 13, 1954, 68 Stat. 718). Enactment of H. R. 3123 will bring aid to individual districts named in the earlier statutes in line with present Federal policy.

The favorable report of the Department of the Interior follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington 25, D. C., March 9, 1955.

Hon. CLAIR ENGLE,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington 25, D. C.

MY DEAR MR. ENGLE: Your committee has requested a report on H. R. 3123, a bill to repeal the provision of the Second Deficiency Appropriation Act, fiscal year 1935, which requires recoupment of certain Federal funds spent for school construction.

We recommend that the bill be enacted if it is amended as suggested below.

The bill provides that effective July 1, 1955, the recoupment provision in the not named in the title of the bill shall be repealed and that the bill shall not affect recoupments made prior to July 1, 1955.

The Second Deficiency Appropriation Act, fiscal year 1935 (49 Stat. 571, 584) appropriated funds for cooperation with certain public-school districts in the States of Montana, Washington, South Dakota and California for the construction and improvement of school facilities for the education of Indian children. The recoupment provision is in the following language: "any amount expended on any project hereunder shall be recouped by the United States within a period of thirty years, commencing with the date of occupancy of the project, through reducing the annual Federal tuition payments for the education of Indian pupils, enrolled in public or high schools of the district involved, or by the acceptance of Indian

UNIVERSITY OF MICHIGAN LIBRARIES

pupils in such schools without cost to the United States; and in computing the amount of recoupment for each project interest at 3 per centum per annum shall be included on unrecouped balances."

Similar recoupment provisions were also included in the acts of May 15, 1936 (49 Stat. 1274), July 1, 1946 (60 Stat. 357), August 8, 1946 (60 Stat. 923), and June 30, 1947 (61 Stat. 211), which authorized or appropriated funds for cooperation with certain public-school districts in the States of Arizona and Wisconsin, and additional districts in the States of Montana and Washington.

Pursuant to these acts a total of $999,000 was appropriated and $998,939.28 has been expended. Recoupment has been effected as of June 30, 1954, in the amount of $470,141.38, leaving a balance due of $528,797.90. The applicable amounts by States and districts are as follows:

State	District	Amount of loan	Amount recouped	Balance outstanding
Arizona	McNary	$25,000.00	$3,308.32	$21,691.68
California	Round Valley Union High	50,000.00	28,532.46	21,467.54
Montana	Lodge Grass District 27	80,000.00	44,000.11	35,999.89
	Hardin District 17–H	158,000.00	83,404.46	74,595.54
	Polson District 23	40,000.00	21,827.01	18,172.99
	Arlee District 8	40,000.00	22,888.83	17,111.17
	Ronan District 28	60,000.00	33,337.58	26,662.42
	Brockton District 55	40,000.00	22,666.61	17,333.39
	Frazer District 2	25,000.00	14,166.61	10,833.39
	Medicine Lake District 7	25,000.00	14,166.61	10,833.39
	Poplar District 9	25,000.00	14,166.61	10,833.39
	Wolf Point District 45	50,000.00	28,333.23	21,666.77
	Browning District 9	95,148.29	52,969.76	42,178.53
	Blackfeet District 1	1,481.00	790.40	690.60
	Little Badger District 50	3,333.84	1,778.08	1,555.76
	Harlem District 12	14,976.15	7,870.87	7,105.28
	Total	657,939.28	362,366.77	295,572.51
Washington	Marysville	38,000.00	21,533.39	16,466.61
	White Swan	50,000.00	28,333.39	21,666.61
	Queets-Clearwater	10,000.00	5,000.06	4,999.94
	Moclips-Aloha	88,000.00	11,733.33	76,266.67
	Total	186,000.00	66,600.17	119,399.83
Wisconsin	Hunter District	80,000.00	9,333.66	70,666.34
	Grand total	998,939.28	470,141.38	528,797.90

The State of South Dakota is not included in this report as the recoupment provision applying to the loan made in that State under the authorization of the Second Deficiency Appropriation Act for 1935 (49 Stat. 571, 584) was waived by the act of June 22, 1936 (49 Stat. 1757–1803) which included the appropriation of funds for the district. A recoupment provision was also included in the act of May 15, 1936 (49 Stat. 1274), which authorized $50,000 for the Hays Public School District, Hays, Mont., but no appropriation has been made.

The recoupment provisions represented the Federal policy that existed at the time with respect to financial assistance to public-school districts which included federally owned tax-exempt areas. The Federal assistance was based on the fact that the areas of nontaxable Indian land resulted in insufficient bonding capacity to permit the school districts to raise adequate funds to provide necessary school facilities. The recoupment provision was based on the fact that the United States also made annual contributions to the school districts under the Johnson-O'Malley Act (25 U. S. C. 452–455) to defray part of the operating costs of schools attended by Indian children, and the double contribution was regarded as unjustified despite the fact that one related to construction and the other related to operation.

Since the insertion of the recoupment provisions in these acts, Federal policy relating to financial assistance for school construction has changed. Congress, by the enactment of general legislation (Public Law 815, 81st Cong., 64 Stat. 967), as amended by Public Law 246, 83d Congress (67 Stat. 522), authorized a systematic program of Federal assistance for school construction in areas in which the impact of Federal activities has created an undue financial burden on local school districts. Repayment of the appropriations therein authorized was not required. Enactment of the proposed legislation if amended as hereafter proposed will bring aid to the individual districts named in the earlier statutes in line with the present

Federal policy. Similar action was taken in 1954 when the recoupment requirements applicable to school districts in the State of Minnesota and to Klamath County, Oreg., were canceled (act of August 31, 1954, 68 Stat. 999; act of August 13, 1954, 68 Stat. 718).

The proposed legislation will extend the same treatment to some, but not all, of the school districts that are presently subject to recoupment requirements. In order that all of the recoupment provisions applying to the districts in the States named above may be repealed it is recommended that the bill be amended by deleting everything after the enacting clause and inserting in lieu thereof the following: "effective on July 1, 1955, the recoupment requirements of the Acts of August 12, 1935 (49 Stat. 581, 584), May 15, 1936 (49 Stat. 1274), July 1, 1946 (60 Stat. 357), August 8, 1946 (60 Stat. 923), and June 30, 1947 (61 Stat. 211) shall become inapplicable to the unrecouped balances of funds expended pursuant to such Acts."

The title of the bill should be amended to read as follows: "To modify the Acts of August 12, 1935 (49 Stat. 584), May 15, 1936 (49 Stat. 1274), July 1, 1946 (60 Stat. 347), August 8, 1946 (60 Stat. 923), and June 30, 1947 (61 Stat. 211), with respect to the recoupment of certain public school construction costs."

Since I am informed that there is a particular urgency for the submission of the views of the Department, this report has not been cleared through the Bureau of the Budget and, therefore, no commitment can be made concerning the relationship of the views expressed herein to the program of the President.

Sincerely yours,

ORME LEWIS,
Assistant Secretary of the Interior.

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington 25, D. C., March 31, 1955.

Hon. CLAIR ENGLE,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington 25, D. C.

MY DEAR MR. ENGLE: The report of this Department on H. R. 3123, a bill to repeal the provision of the Second Deficiency Appropriation Act, fiscal year 1935, which requires recoupment of certain Federal funds spent for school construction, was transmitted to your committee on March 9 In view of information that your committee desired an immediate statement of the views of this Department, the report was submitted without clearance through the Bureau of the Budget.

Subsequent to the transmission of the report on H. R. 3123, we have been advised by the Bureau of the Budget that the views expressed in that report, as submitted to your committee on March 9, are without objection insofar as the Bureau of the Budget is concerned.

Sincerely yours,

(Signed) ORME LEWIS,
Assistant Secretary of the Interior.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill (H. R. 3123), as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman).

ACT OF AUGUST 12, 1935 (49 STAT. 571, 584)

* * * Construction, enlargement, or improvement of public-school buildings: For cooperation with public-school districts in the construction, enlargement, or improvement of local public elementary or high schools, including purchase of necessary equipment, as authorized by and in conformity with numerous Acts of the Seventy-fourth Congress approved June 7, 1935, fiscal year 1936, $931,000, as follows: Queets, Washington, $10,000 (Public, Numbered 111); Glacier County Montana, $100,000 (Public, Numbered 103); Wolf Point, Montana, $50,000

UNIVERSITY OF MICHIGAN LIBRARIES

(Public, Numbered 104); Polson, Montana, $40,000 (Public, Numbered 105); Lake and Missoula Counties, Montana, $100,000 (Public, Numbered 106); Brockton, Montana, $40,000 (Public, Numbered 107); Poplar, Montana, $25,000 (Public, Numbered 108); Marysville, Washington, $38,000 (Public, Numbered 110); Frazer, Montana, $25,000 (Public, Numbered 109); White Swan, Washington, $50,000 (Public, Numbered 112); Covelo, California, $50,000 (Public Numbered 113); Shannon County, South Dakota, $125,000 (Public, Numbered 114); Big Horn County, Montana (district numbered 27), $80,000 (Public, Numbered 119); Blaine County, Montana, $15,000 (Public, Numbered 120); Medicine Lake, Montana, $25,000 (Public, Numbered 127); Hardin and Crow Agency, Big Horn County, Montana (district 17–H), $158,000 (Public, Numbered 126): *Provided*, That plans and specifications for construction, enlargement, or improvement of structures shall be furnished by local or State authorities, without cost to the United States, and upon approval thereof by the Commissioner of Indian Affairs actual work shall proceed under the direction of such local or State officials. Payment for work in place shall be made monthly, on vouchers properly certified by local officials of the Indian Service: [*Provided further*, That any amount expended on any project hereunder shall be recouped by the United States within a period of thirty years, commencing with the date of occupancy of the project, through reducing the annual Federal tuition payments for the education of Indian pupils enrolled in public or high schools of the district involved, or by the acceptance of Indian pupils in such schools without cost to the United States; and in computing the amount of recoupment for each project interest at 3 per centum per annum shall be included on unrecouped balances.]. * * *

ACT OF AUGUST 17, 1950 (64 STAT. 459)

There is hereby authorized to be appropriated, out of any funds in the Treasury not otherwise appropriated, an additional sum of $80,000 to be available to the Secretary of the Interior for the purpose of cooperating with Independent School District Numbered 5, Cass County, Minnesota, at Walker, Minnesota, for the construction, extension, equipment, and improvement of public school facilities at Walker, Minnesota, as authorized by the Act of July 1, 1940 (54 Stat. 707, 708), and the Act of July 24, 1947 (61 Stat. 414)[: *Provided*, That in consideration of the amount heretofore appropriated and the amount which may be appropriated to carry out the provisions of this section, all Indian children residing in such district shall be admitted to the schools of the district without further cost to the United States for instructional, operation, and maintenance purposes].

UNIVERSITY OF MICHIGAN LIBRARIES

Calendar No. 851

84TH CONGRESS, 1st Session | SENATE | REPORT No. 843

PROVIDING FOR THE DISTRIBUTION OF FUNDS BELONGING TO THE MEMBERS OF THE CREEK NATION OF INDIANS

JULY 13, 1955.—Ordered to be printed

Mr. O'MAHONEY, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H. R. 4367]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 4367) to provide for the distribution of funds belonging to the members of the Creek Nation of Indians, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

The amendment is as follows:

On page 2, line 13, change the period to a comma and add:

except the proceeds of any final judgment entered in Docket No. 21, pending before the Indian Claims Commission, in which the Creek Nation (Oklahoma) is plaintiff, and McGhee et al., on behalf of the Creek Nation East of the Mississippi are intervenors, and the United States is defendant.

EXPLANATION OF THE BILL

The purpose of H. R. 4367 is to provide for the distribution of all funds held by the United States in trust for the Creek Nation and certain members thereof. Such action will permit the Indians to derive some benefit from their money, and will stop the accrual of interest on money now on deposit in the Treasury of the United States.

At present the Creek Nation has $654,680.73 on deposit in the Federal Government which is drawing 4 percent interest. The breakdown of this sum is as follows:

Proceeds of lands, Five Civilized Tribes, Oklahoma (Creek)	$77,506.51
Interest and accruals on interest, Five Civilized Tribes, Oklahoma (Creek)	7,301.54
Judgment, Court of Claims, Creek Indian Nation	118,184.77
Interest, etc., Creek Indian Nation	86,889.64
Creek Indian Nation, judgment fund	[1] 273,296.46
Interest, etc., Creek Indian Nation judgment fund	91,501.81
Total	654,680.73

[1] This is the balance of a judgment in the Court of Claims (87 Ct. Cls. 280) for $302,997.40, which was appropriated by the Second Deficiency Appropriation Act, fiscal year 1939 (53 Stat. 626, 645).

The enactment of H. R. 4367 will repeal the provision of the Deficiency Appropriation Act of June 19, 1934, which directed the Secretary of the Interior to distribute to the Creek Nation the net proceeds of a judgment recovered in the Court of Claims amounting to $118,184.77. The distribution was to be undertaken on the basis of a roll to be prepared as of December 4, 1933, but has not been made for two reasons: (*a*) The cost of preparing a roll as of December 4, 1933, would be prohibitive, probably consuming most of the judgment fund; and (*b*) as a matter of equity, the principal of the judgment fund should be available to complete the payment of 1,185 adjudicated allotment equalization claims totaling $98,175.03 before any part of it is distributed per capita.

In addition to funds mentioned in the Deficiency Appropriation Act, H. R. 4367 would provide for distributing the entire amount of funds held in trust for the Creek Indians, plus any additional sum which may hereafter be placed to the credit of the Creek Nation.

It is not intended that this bill shall provide for the distribution of funds which may be awarded in the cause designated as Docket No. 21 in the Indian Claims Commission in which the plaintiffs are the Creek Nation (Oklahoma) and the intervenor is the Creek Nation east of the Mississippi and the defendant is the United States.

Provision is also made in the bill for the distribution of the net proceeds of a judgment in the amount of $538,628.29 now on deposit in the Treasury of the United States to the credit of a group of Creek Indians known as the Loyal Creek Band.

SECTIONAL ANALYSIS

Section 1 repeals the provision of the Deficiency Appropriation Act, fiscal year 1934 (48 Stat. 1021, 1033), which relates to the distribution of the 1933 judgment fund.

Section 2 (a) authorizes and directs the Secretary of the Interior to use Creek Nation funds on deposit in the Federal Treasury to complete allotment-equalization payments for claims filed and adjudicated in accordance with the act of June 30, 1919 (41 Stat. 3, 24). Section 2 (b) permits the balance of all Creek Nation trust funds to be distributed per capita on the basis of the final rolls approved under the act of April 26, 1906 (34 Stat. 137), or to their heirs or legatees any funds on deposit in the Federal Treasury and not required for the purposes of section 2 (a) above. Section 2 (c) authorizes the distribution of funds appropriated by the Third Supplemental Act of 1952 (66 Stat. 101, 121), in payment of the judgment awarded by the United States to the credit of the Loyal Creek Band of Indians. Such funds shall be paid to those persons who are entitled thereto in pursuance to the act of March 3, 1903 (32 Stat. 982, 994).

Section 3 specifies the tribal or State law to be applied in the determination of the heirs of the deceased tribal members.

Section 4 provides for the protection of the rights of minors and persons under a legal disability when funds are distributed.

Section 5 authorizes the appropriation of $200,000 to cover expenses incidental to the distribution of the funds authorized by this act.

Section 6 authorizes the Secretary of the Interior to issue procedures necessary to meet the needs of this act.

The Creek Indians and the Department of the Interior have expressed approval of H. R. 4367 and recommended its enactment.

The executive communication of the Department of the Interior follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington 25, D. C., January 31, 1955.

Hon. RICHARD M. NIXON,
President of the Senate,
Washington 25, D. C.

MY DEAR MR. PRESIDENT: There is transmitted herewith a draft of a proposed bill to provide for the distribution of funds belonging to the members of the Creek Nation of Indians, and for other purposes.

It is suggested that the proposed bill be referred to the appropriate committee for consideration, and I recommend that it be enacted.

The purpose of the bill is to provide for the distribution of all funds held by the United States in trust for the Creek Nation and certain members thereof. Such action will permit the Indians to derive some benefit from their money, and it will also stop the accrual of interest on money held by the Federal Government.

1. Of the funds of the Creek Nation on deposit in the Treasury of the United States the amount of $205,074.41 represents the principal and interest of a judgment recovered in the Court of Claims on December 4, 1933 (*Creek Nation* v. *United States*, No. H–510). The amount of the original judgment was $144,106.01. It was reduced by the payment of attorney fees and expenses to $118,184.77. Accrued interest is $86,889.64, and the fund is still accruing interest at the rate of 4 percent per annum. None of the fund has been paid to the Indians.

The Deficiency Appropriation Act of June 19, 1934 (48 Stat. 1021–1033), directed the Secretary to distribute the principal of this sum per capita on the basis of a roll to be prepared as of December 4, 1933. This distribution has not been made, and the Department has on several occasions asked Congress to repeal the direction, for two reasons.

(*a*) The cost of preparing a new tribal roll as of December 4, 1933, would be prohibitive, probably taking most of the judgment fund, and when completed the new roll would not be usable for any other purpose.

Membership rolls of the Five Civilized Tribes, including the Creek Nation, were prepared under certain early acts of Congress and were closed and made final on March 4, 1907, pursuant to section 2 of the act of April 26, 1906 (34 Stat. 137). These final rolls have served as the basis for the allotment of tribal lands of the Five Civilized Tribes, including the Creek Nation, in severalty, and, excluding the Creek Nation, for the distribution of other tribal assets among their recognized membership. If the 1907 final approved rolls are used for the distribution of the judgment funds it would be necessary merely to require the heirs of deceased members to prove their heirship.

On the other hand, if a new roll were prepared as of December 4, 1933, it would be necessary to determine the identity of persons who were born into tribal membership after the rolls were closed in 1907, and to determine which of them were alive in 1933. This would require the application of laws and customs of the Creek Nation which have had no practical effect for the 47 years since the rolls were closed. The procedure would also be costly and would probably exhaust most of the judgment fund, leaving little to distribute per capita.

Moreover, if the revised roll were made it would apply only to the distribution of that one fund and it would not be usable for the distribution of other tribal assets.

(*b*) As a matter of equity, the principal of this judgment fund should be available to complete the payment of adjudicated allotment equalization claims before any part of it is distributed per capita. When tribal lands were allotted, all members did not receive allotments of equal value and Congress authorized equalization payments to be made out of available tribal funds. All allotment equalization claims have been finally adjudicated under section 18 of the act of June 30, 1919 (41 Stat. 3, 24). There are 1,185 Creek Indians whose adjudicated equalization claims have not been paid. As these Indians have an indisputable right to be paid, their claims should be satisfied before any general per capita distribution of funds is made to all Creeks, which would include members of the tribe who have received their equalization payments in full. The unpaid equalization claims total $98,175.03.

Section 1 of the bill will repeal the provision of the 1934 Deficiency Appropriation Act which relates to the distribution of this 1933 judgment fund. Section 2 (a) of the bill will permit any Creek Nation trust funds, including the 1933 judgment fund, to be used to complete the allotment equalization payments to persons with valid adjudicated claims thereto. Section 2 (b) of the bill will permit the balance of all Creek Nation trust funds to be distributed per capita on the basis of the final roll approved under the act of April 26, 1906, supra. At the present time the Creek Nation has on deposit in the Treasury of the United States, including the 1933 judgment fund referred to above, a total of $654,680.73, as follows:

14X7373 (13)—Proceeds of lands, Five Civilized Tribes, Oklahoma (Creek)	$77, 506. 51
14X7873 (13)—Interest and accruals on interest, Five Civilized Tribes, Oklahoma (Creek)	7, 301. 54
14X7035—Judgment, Court of Claims, Creek Indian Nation	118, 184. 77
14X7535—Interest, etc., Creek Indian Nation	86, 889. 64
14X7128—Creek Indian Nation, judgment fund	[1] 273, 296. 46
14X7628—Interest, etc., Creek Indian Nation judgment fund	91, 501. 81
	654, 680. 73

[1] This is the balance of a judgment in the Court of Claims (87 Ct. Cls. 280) for $302,907.40, which was appropriated by the Second Deficiency Appropriation Act, fiscal year 1939 (53 Stat. 626, 645).

In addition, the Creek Nation, together with other claimants, has obtained in the Indian Claims Commission (*Creek Nation* v. *United States*, Docket No. 21) an interlocutory decree for $1,769,940, which is subject to offsets that have not yet been determined. Any part of the final judgment that is awarded or allocated to the Creek Nation, as distinguished from the other claimants, will also be subject to distribution under the provisions of section 2 (b) of the bill.

An authorization to distribute existing and prospective tribal funds will overcome the prohibition imposed by the act of May 24, 1922 (42 Stat. 552, 575), against the expenditure of funds of the Five Civilized Tribes without specific authorization by Congress.

2. The sum of $538,628.29 is now on deposit in the Treasury of the United States to the credit of the Loyal Creek Band or Group of Indians. It is the balance of a $600,000 judgment entered by the Indian Claims Commission in favor of such Indians that remains after the payment of attorney fees and expenses. The judgment was appropriated by the Third Supplemental Appropriation Act, 1952 (66 Stat. 101, 121). The Loyal Creeks were dealt with as a group separate and apart from the Creek Nation, and this money is therefore not a tribal trust fund. It belongs to the persons whose names appear on a payroll prepared pursuant to the act of March 3, 1903 (32 Stat. 982, 994), for the purpose of distributing a $600,000 appropriation that was made in part payment of the same claim. The present judgment fund represents the balance due on that claim.

Section 2 (c) of the bill will authorize the distribution of such fund to the persons who are entitled thereto.

Section 3 of the bill specifies the tribal or State law to be applied when determining the heirs of deceased tribal members, and section 4 of the bill provides for the protection of the rights of minors and persons under a legal disability when funds are distributed.

Section 5 of the bill authorizes the appropriation of $200,000 to defray the expenses incident to the distribution of the funds. The circumstances justify this request. There are three groups of persons entitled to payment: (1) persons entitled to equalization payments; (2) persons entitled to share in the judgment in favor of the Loyal Creeks and Freedmen; and (3) persons entitled to share per capita in the distribution of the residual funds of the Creek Nation. Enactment of the proposed bill will require that attention be directed to the 1,185 persons on the 1907 rolls with equalization claims and an unestimated number of heirs and legatees of such persons who are deceased. This will impose a workload which cannot be absorbed by the personnel available under present appropriations to the Bureau of Indian Affairs. It does not appear reasonable to assess the cost of the delayed payments against tribal funds, since the delay is not attributable to the tribe.

Funds payable to the descendants of the Loyal Creeks and Freedmen were awarded by the Indian Claims Commission and they represent the remaining half of a claim that was partially paid in 1904. While the finding of the Commission

UNIVERSITY OF MICHIGAN LIBRARIES

should be regarded as final and conclusive regarding the amount due the Indians, the award contains no amount for interest on a principal payment that has been delayed for 50 years. It is interesting to note that if the principal amount of $600,000 were projected at 4-percent interest for 50 years it would amount to $4,264,010.01. While there is no intention to supplement the amount of the award, the claimants are reasonably entitled to payment of the full amount of the award without deducting the expenses of distribution.

The substance of the proposed bill has been discussed with representatives of the Creek Nation and they have expressed their approval.

The Bureau of the Budget has advised that there is no objection to the submission of this proposed legislation to the Congress.

Sincerely yours,

ORME LEWIS,
Assistant Secretary of the Interior.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill (H. R. 4367), as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman).

SECTION 1 OF THE DEFICIENCY APPROPRIATION ACT, FISCAL YEAR 1934
(48 STAT. 1021, 1033)

BUREAU OF INDIAN AFFAIRS

* * * [The Creek Nation: The appropriation of $144,106.01 contained in section 4, title I, of this Act for payment of a judgment rendered by the Court of Claims in favor of the Creek Nation shall be placed to the credit of the Creek Nation on the books of the Treasury Department and such sum is hereby appropriated and, after deducting the attorneys' fees and expenses allowed by the Court of Claims and the estimated expenses of making the roll and the payment herein provided for, shall be paid by the Secretary of the Interior per capita to the members of the Creek Tribe of Indians entitled thereto or their heirs, upon a roll made as of date of December 4, 1933, under the direction of and approved by the Secretary of the Interior.] * * *

○

UNIVERSITY OF MICHIGAN LIBRARIES

Calendar No. 852

84TH CONGRESS, 1st Session | SENATE | REPORT No. 844

PROVIDING FOR THE CONVEYANCE TO THE STATE OF NORTH DAKOTA, FOR USE AS A STATE HISTORIC SITE, OF THE LAND WHERE CHIEF SITTING BULL WAS ORIGINALLY BURIED

JULY 13, 1955.—Ordered to be printed

Mr. O'MAHONEY, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany S. 535]

The Committee on Interior and Insular Affairs, to whom was referred the bill (S. 535) to provide for the conveyance to the State of North Dakota, for use as a State historic site, of the land where Chief Sitting Bull was originally buried, having considered the same, report favorably thereon with amendments and recommend that the bill, as amended, do pass.

The amendments are as follows:

On page 2, line 2, after "quarter" insert ", and the southwest quarter of the southwest quarter of the southeast quarter of the southeast quarter".

On page 2, lines 3 and 4, delete "two and one-half" and insert in lieu thereof "five".

EXPLANATION OF THE BILL

As amended, S. 535 provides for the conveyance to the State of North Dakota the title of the United States and the Standing Rock Tribe of Indians in a 5-acre tract of land located within the Standing Rock Reservation. The conveyed land, which contains the original burial site of Chief Sitting Bull, would be used as a State historic site. The bill requires the conveyance to except the mineral in the lands and to provide for a reversion of title when the land ceases to be used as a State historic site.

Sitting Bull was buried on the approximate tract of land described in the bill on December 15, 1890, and his remains rested there until April 8, 1953, when they were removed by his heirs to a burial site near Mowbridge, S. Dak. For several years the State of North Dakota had been interested in the erection of a suitable monument

to Sitting Bull and it opposed the removal of his remains to the State of South Dakota. The State now desires to acquire the site of the original burial and to erect a suitable monument.

The Standing Rock Tribal Council has, by resolution, approved the transfer of the land in question.

The favorable reports of the Department of the Interior and the Bureau of the Budget, together with an informational statement regarding Sitting Bull, are set forth below.

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington 25, D. C., June 4, 1955.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington 25, D. C.

MY DEAR SENATOR MURRAY: Your committee has requested a report on S. 535, a bill to provide for the conveyance to the State of North Dakota, for use as a State historic site, of the land where Chief Sitting Bull was originally buried.

We recommend that the bill be enacted with the amendment suggested below.

The bill directs the Secretary of the Interior to convey to the State of North Dakota for use as a State historic site the title of the United States and the Standing Rock Tribe of Indians in a 2½-acre tract of land located within the Standing Rock Reservation, which is the original burial site of Chief Sitting Bull. The bill requires the conveyance to except the minerals in the land and to provide for a reversion of title when the land ceases to be used as a State historic site.

Sitting Bull was buried on the approximate tract of land described in the bill on December 15, 1890, and his remains rested there until April 8, 1953, when they were removed by his heirs to a burial site near Mobridge, S. Dak. For several years the State of North Dakota had been interested in the erection of a suitable monument to Sitting Bull, and it opposed the removal of his remains to the State of South Dakota. The State now desires to acquire the site of the original burial and to erect a suitable monument. In a letter dated December 3, 1953, Mr. Russell Reid, superintendent of the State Historical Society of North Dakota, said:

"If this tract of land can be transferred to the State of North Dakota, we can assure you that a good memorial to Sitting Bull will be erected and that steps will be taken to properly landscape the immediate area to provide an appropriate setting. I have discussed this matter with Governor Brunsdale and he has assured me that the State of North Dakota will aid the project in every way possible. I know you understand that the people of Fort Yates have given the project their wholehearted support.

"I hope this matter can be brought to a successful conclusion in the near future as we are anxious to proceed with the erection of the memorial marker at the earliest possible date.

"We again wish to thank you for your offer to cooperate with us."

By resolution dated July 1, 1953, and May 5, 1954, the Standing Rock Sioux Tribal Council approved the transfer to the State of the land in question. In addition to the 2½-acre tract described in the bill, the tribal council proposed that an additional 2½-acre tract be conveyed in order that the State may also provide a park and parking space for automobiles. In accordance with this tribal desire, we recommend that the bill be amended as follows:

On page 2, line 2, after "quarter" insert ", and the southwest quarter of the southwest quarter of the southeast quarter of the southeast quarter".

On page 2, lines 3 and 4, delete "two and one-half" and insert in lieu thereof "five".

An informational statement regarding Sitting Bull is enclosed for your information.

The Bureau of the Budget has advised us that there is no objection to the submission of this report to your committee.

Sincerely yours,

CLARENCE A. DAVIS,
Acting Secretary of the Interior.

UNIVERSITY OF MICHIGAN LIBRARIES

Informational Statement Regarding Sitting Bull

Sitting Bull, as he was known to the whites, or "A Buffalo Bull Resides Permanently Among Us" as he was known to the Indians of his own tribe, was born about 1834 on Grand River, S. Dak., in the Unepapa band of the Sioux. In his early manhood Sitting Bull established a reputation as a warrior, but after the 1860's he became a medicine man. In this capacity he became an important chief of the Unepapa Sioux and a leading counselor of the Sioux, but he was not a warrior chief. Throughout his life, Sitting Bull was hostile to the whites.

Sitting Bull was in the Unepapa camp of the great Sioux-Cheyenne encampment on the Little Big Horn River when General Custer's 7th Cavalry attacked it on June 25, 1876. He took no part in the fight, but he did make medicine for victory. After the battle, Sitting Bull led about 300 of the Sioux across the border into Canada where he remained until July 1881. In that month, most of his followers having already surrendered to the United States Army authorities, he crossed to the south side of the international border and surrendered with 187 of his followers at Fort Buford. The authorities sent him to the Standing Rock Indian Reservation where he lived until 1890, except for 1 year when he was a member of Buffalo Bill's Wild West Show.

A religiouslike craze spread among the Sioux Indians during 1890. The Indians believed in the coming of a messiah who would restore to them their old buffalo hunting lands. One aspect of this emotional upsurge among them took the form of ghost dances. The agitation among the Indians led to the prospect that they might leave the reservations and go again on the warpath, as they had in 1876. The agency and military authorities believed that Sitting Bull was one of the leaders of the messiah craze. This led to the decision to take him into custody so as to remove one of the principal dangers of another Indian war.

The military post in the Standing Rock Agency was Fort Yates. Colonel Drum, the commanding officer of the post, and James McLaughlin, the Indian agent, jointly decided that Sitting Bull should be seized. They planned to do this on December 20. Information brought by military police to Fort Yates on the evening of the 14th, however, decided them to seize the Chief the next morning at daylight. The information which caused this sudden change in plan was that an invitation had been received by Sitting Bull to come to Pine Ridge Reservation where the Indians were ready to rise against the whites under his leadership, and that the old Chief was making ready to go with or without the permission of the authorities.

Sitting Bull was living at this time in his camp on Grand River about 40 miles southwest of Fort Yates. There were some Indian police in the vicinity. Colonel Drum and McLaughlin dispatched orders the evening of the 14th to Lieutenant Bull Head in charge of the Grand River police to seize Sitting Bull at daylight the next morning, and they sent him reinforcements to the extent that he had 43 Indian police on hand by daylight. Two troops of the 8th Cavalry rode out of Fort Yates at midnight with a Gatling gun for the Grand River camp to give support to the Indian police should trouble develop.

At daylight of December 15, 1890, Lieutenant Bull Head and his 43 Indian police surrounded Sitting Bull's 2 cabins: 8 police went to one cabin, 10 to the other. They found Sitting Bull asleep on the floor of the larger cabin. They awoke him and told him they wanted him to go to Fort Yates with them. He said he would, sent one of his wives to the other cabin for some clothes, and asked that his favorite horse be saddled. While the old chief was dressing, about 150 of his followers collected outside his cabin. Upon leaving the cabin, Sitting Bull became excited, refused to go farther, and called on his followers to rescue him. One of them fired and shot Lieutenant Bull Head in the side, who immediately turned and shot Sitting Bull through the body Another Indian policeman, Red Tomahawk, who was behind the chief shot him through the head at the same time. A desperate hand-to-hand fight developed at once in which the trained police, although greatly outnumbered, drove Sitting Bull's warriors into nearby timber. The police then recovered their dead and barricaded themselves in the house which they held for 2 hours until the two troops of cavalry arrived about 7:30. The Indian police lost 6 killed or died of wounds and 1 wounded; the Sioux hostiles lost 8 killed, including Sitting Bull and his 17-year-old son, Crow Foot.

The cavalry detachment took the body of Sitting Bull and those of the dead Indian police back to Fort Yates. The dead Indian police were buried in the military cemetery with military honors. Sitting Bull was buried in the cemetery without ceremony. The War Department abandoned Fort Yates in 1895 and

removed all military graves from the cemetery. The grave of Sitting Bull was left undisturbed.

From the Indian viewpoint, Sitting Bull was one of their great men. Any commemoration of the Plains Indians in American history would have to consider the Sioux, the most numerous and powerful of the Plains Indians. Among the Sioux, Sitting Bull would rank among their principal figures.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington 25, D. C., June 1, 1955.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington 25, D. C.

MY DEAR MR. CHAIRMAN: This will refer to the request of your committee for the views of this Bureau on S. 535, to provide for the conveyance to the State of North Dakota, for use as a State historic site, of the land where Chief Sitting Bull was originally buried.

It is the understanding of this office that the Standing Rock Sioux Tribal Council has by appropriate tribal resolution favored the objectives of this legislation.

Under the terms of the bill a small tract of land wherein is situated the original burial place of Chief Sitting Bull would be conveyed to the State of North Dakota for use as a State historic site honoring this noted Indian chief.

In a report which the Department of the Interior is submitting to your committee, amendments are proposed which would more adequately meet the wishes of the tribal council.

Subject to consideration of the amendments to be proposed by the Department of the Interior, this Bureau would have no objection to the enactment of the measure.

Sincerely yours,

DONALD R. BELCHER,
Assistant Director.

O

UNIVERSITY OF MICHIGAN LIBRARIES

Calendar No. 853

84TH CONGRESS, 1st Session } SENATE { REPORT No. 845

EXTENDING THE PERIOD OF RESTRICTIONS ON LANDS BELONGING TO INDIANS OF THE FIVE CIVILIZED TRIBES IN OKLAHOMA

JULY 13, 1955.—Ordered to be printed

Mr. O'MAHONEY, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany S. 2198]

The Committee on Interior and Insular Affairs, to whom was referred the bill (S. 2198) to extend the period of restrictions on lands belonging to Indians of the Five Civilized Tribes in Oklahoma, and for other purposes, having considered the same, reports favorably thereon with amendments and recommends that the bill as amended do pass.

The amendments are as follows:

On page 2, line 22, strike the words "ninety days after the date it is issued", and insert "six months after notice of the order is given to such Indian".

On page 3, line 21 and line 22, strike the words "the principal chief or governor of the tribe to which the applicant belongs".

On page 5, line 12, strike the words "heretofore granted", and insert the words "that is outstanding when an order removing restrictions becomes effective."

EXPLANATION OF THE BILL

The purpose of S. 2198, as amended, is to extend the period of restrictions on lands belonging to Indians of the Five Civilized Tribes in Oklahoma.

There are two kinds of restrictions against the alienation or encumbrance of lands owned by Indians of the Five Civilized Tribes. One is a restriction against alienation or encumbrance without the approval of the Secretary of the Interior. This restriction applies to the homestead allotments of living allottees of one-half or more Indian blood and to both homestead and surplus allotments of such

allottees of three-fourths or more Indian blood. The death of an allottee removes this restriction on the land. Under the terms of the act of May 10, 1928 (45 Stat. 495), this kind of restriction will expire on April 26, 1956.

The second type of restriction affecting these Indians is a restriction against alienation or encumbrance without the approval of the county court of the county in which the land is located. This restriction applies to heirs and devisees of one-half or more Indian blood, but only to such lands owned by such devisees or heirs that were restricted in the hands of the deceased owner, without regard to whether they were acquired by allotment, inheritance, devise, gift, exchange, partition, or purchase with restricted funds (act of August 4, 1947, 61 Stat. 731). The 1947 act contains no express provision with respect to the expiration date of the restrictions, and there is a difference of opinion as to whether the restrictions will expire on April 26, 1956, or continue indefinitely.

Enactment of S. 2198 will extend for an indefinite period the restrictions under the 1947 act, and it extends the period of the first kind of restriction for the lifetime of the Indians who own restricted lands on the date of enactment of the bill. It also provides that:

(1) The Secretary of the Interior may issue an order removing restrictions, either on application of the Indian or on his own initiative, if in his judgment the Indian is capable of handling his own affairs without assistance from the Federal Government.

(2) A review of the Secretary's action in issuing or refusing to issue an order removing restrictions may be obtained in the county court in which the Indian resides. The review may be initiated by the Indian affected or, in the case of an order issued without application therefor, by the board of county commissioners. The county court may affirm the action of the Secretary, or set aside an order issued by the Secretary, or issue an order removing restrictions, as the facts may warrant. Any final order of the county court is subject to appeal in accordance with the probate laws of the State of Oklahoma.

(3) When an order removing restrictions is issued the Secretary shall give the Indian full control over his real and personal property that is subject to restriction against alienation imposed by the United States.

S. 2198 also extends the provisions of section 23 of the act of April 26, 1906 (34 Stat. 137), as amended, relating to the making of wills by an Indian of the Five Civilized Tribes. Under existing law that section will expire on April 26, 1956, and if the section is not extended such an Indian might be unable to make a will effectively disposing of his restricted property.

Representatives of the Five Civilized Tribes appeared before the committee and unanimously endorsed this legislation. The favorable report of the Department of the Interior follows:

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., June 28, 1955.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington 25, D. C.

MY DEAR SENATOR MURRAY: Your committee has requested a report on S. 2198, a bill to extend the period of restrictions on lands belonging to Indians of the Five Civilized Tribes in Oklahoma, and for other purposes.

We recommend that the bill be enacted.

UNIVERSITY OF MICHIGAN LIBRARIES

There are two kinds of restrictions against the alienation or encumbrance of lands owned by Indians of the Five Civilized Tribes. One is a restriction against alienation or encumbrance without approval of the Secretary of the Interior. This restriction applies to the homestead allotments of living allottees (as distinguished from heirs and devisees) of one-half or more Indian blood and to both homestead and surplus allotments of such allottees of three-fourths or more Indian blood (act of May 27, 1908, 35 Stat. 312, as amended by the act of April 12, 1926, 44 Stat. 239). The death of an allottee removes this kind of restriction (act of August 4, 1947, 61 Stat. 731). This kind of restriction will expire on April 26, 1956, in accordance with the provisions of the act of May 10, 1928 (45 Stat. 495).

The other kind of restriction is a restriction against alienation or encumbrance without the approval of the county court of the county in which the land is located. This restriction applies to heirs and devisees of one-half or more Indian blood, but only to lands owned by such heirs or devisees that were restricted in the hands of the deceased owner, without regard to whether they were acquired by allotment, inheritance, devise, gift, exchange, partition, or purchase with restricted funds (act of August 4, 1947, 61 Stat. 731). The 1947 act contains no express provision regarding the expiration date of the restrictions, and there is a difference of opinion with respect to whether the restrictions will expire on April 26, 1956, or continue indefinitely.

The bill extends indefinitely the restrictions under the 1947 act, and it extends the period of the first kind of restriction, without changing its scope, for the lifetime of the Indians who own restricted lands on the date the bill is enacted. It also provides, however, that:

(1) The Secretary of the Interior may issue an order removing restrictions, either on application of the Indian or on his own initiative, if in his judgment the Indian is capable of handling his own affairs without assistance from the Federal Government.

(2) A review of the Secretary's action in issuing or refusing to issue an order removing restrictions may be obtained in the county court in which the Indian resides. The review may be initiated by the Indian affected or, in the case of an order issued without application therefor, by the board of county commissioners. The county court may affirm the action of the Secretary, or set aside an order issued by the Secretary, or issue an order removing restrictions, as the facts may warrant. Any final order of the county court is subject to appeal in accordance with the probate laws of the State of Oklahoma.

(3) When an order removing restrictions is issued the Secretary shall give the Indian full control over his real and personal property that is subject to restriction against alienation imposed by the United States.

The bill also extends the provisions of section 23 of the act of April 26, 1906 (34 Stat. 137), as amended, relating to the making of wills by an Indian of the Five Civilized Tribes. Under existing law that section will expire on April 26, 1956, and if the section is not extended such an Indian might be unable to make a will effectively disposing of his restricted property. The proviso in section 23 permits a fullblood member of the Five Civilized Tribes to disinherit his parent, spouse, or child if his will is acknowledged before and approved by a United States Commissioner, a judge of the United States district court, or the county court. In the absence of this proviso State law would prohibit the disinheritance of the spouse of the Indian. In view of the fact that some marriages with members of the Five Civilized Tribes have been motivated by a desire to inherit the Indians' property, and the fact that no other Indians in the United States are prohibited from disinheriting a spouse if his will is approved by the Secretary of the Interior, we believe that this exception to Oklahoma law should also be continued for members of the Five Civilized Tribes.

At the present time there are approximately 12,000 Indians of the Five Civilized Tribes who own restricted land, most of them original allottees. The youngest allottee will be about 50 years old in 1956 when restrictions expire. It is estimated that about 40 percent of that number, i. e., 4,800 persons, live on their restricted land and that the remaining 60 percent do not. Although many of these people are the older and non-English-speaking Indians who in their youth lived in isolated areas where educational advantages were not adequate, and many of them lack experience in handling business affairs, we believe that a large number of them are able to handle their own affairs without assistance from the Federal Government. We therefore believe that any blanket extension of the period of restrictions for the entire group should include a procedure for terminating the restrictions on property owned by members of the group who do not need assistance.

The procedure incorporated in the bill should adequately prevent arbitrary action either in terminating or refusing to terminate restrictions.

In several statutes recently enacted the Congress has provided that when the Federal trust over the property of a tribe and its members is terminated the Indians shall cease to be eligible for the special services performed by the United States for Indians because of their status as Indians, all statutes of the United States that affect Indians because of their status as Indians shall cease to apply to such persons, and the laws of the several States shall apply to them in the same manner that they apply to other citizens. A provision of this kind is not contained in the present bill with respect to members of the Five Civilized Tribes who cease to own restricted property. It will be the policy of this Department, however, to discontinue special services for Indians in this category except in cases where such action will result in substantial hardship.

In order to make it clear that the last proviso in section 2 (d) protects all outstanding leases, contracts, and permits, and that its effect is not limited to leases, etc., granted before the date of the act, we recommend that page 5, line 9, be amended by deleting "heretofore granted" and by inserting in lieu thereof "that is outstanding when an order removing restrictions becomes effective."

The Bureau of the Budget has advised us that there is no objection to the submission of this report.

Sincerely yours,

ORME LEWIS,
Assistant Secretary of the Interior.

UNIVERSITY OF MICHIGAN LIBRARIES

Calendar No. 854

84TH CONGRESS, 1st Session } SENATE { REPORT No. 846

AUTHORIZING THE PUEBLOS OF SAN LORENZO AND POJOAQUE IN NEW MEXICO TO SELL CERTAIN LANDS TO THE NAVAJO TRIBE

JULY 13, 1955.—Ordered to be printed

Mr. ANDERSON, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany S. 1906]

The Committee on Interior and Insular Affairs, to whom was referred the bill (S. 1906) to authorize the Pueblos of San Lorenzo and Pojoaque in New Mexico to sell certain lands to the Navajo Tribe, and for other purposes, having considered the same, report favorably thereon without amendment and with the recommendation that the bill do pass.

EXPLANATION OF THE BILL

The purpose of S. 1906 is to permit the Pueblo of San Lorenzo and the Pueblo of Pojoaque to sell certain tribal lands in New Mexico to the Navajo Tribe. Legislation is necessary to accomplish this transfer because section 4 of the act of June 18, 1934 (48 Stat. 985; 25 U. S. C., 1952 edition, sec. 464), which applies to both Pueblos, prohibits the sale of tribal lands.

These Pueblo lands, totaling 56,252.44 acres, were purchased for a total consideration of $114,844.88 in 3 separate transactions in 1944 with tribal trust funds. The lands are located in the portion of Valencia County, N. Mex., which together with adjacent parts of McKinley County, is generally known as the Ramah area. They are more than 200 miles away from the Pueblos to which they belong.

The lands have been made available by the Pueblos through grazing permits to the Ramah Band of Navajo Indians, whose members live in that area and need additional lands. The governing bodies of the two Pueblos have agreed to sell these lands to the Navajo Tribe at a price to be mutually agreed upon, and the Navajo Tribe desires to buy them, and will use tribal funds for this purpose. Since the title to the lands is already in trust the sale between the Indian groups would not result in a change in the present tax status.

74002°—57 S. Rept., 84-1, vol. 2——100

Funds received by the two Pueblos from these sales would be deposited in the Treasury to the credit of the Pueblo owning the particular lands sold, and would be available for expenditure for any purpose (except per capita payments) that is designated by the governing body of the Pueblo concerned and approved by the Secretary of the Interior.

In addition, S. 1906 would enable the Navajo Tribe to consolidate its land holdings in the Ramah area into larger tracts by exchanging, with the approval of the Secretary of the Interior, the lands acquired from the two Pueblos for other lands in Valencia or McKinley Counties, thus simplifying administration. The sales and exchanges authorized by the proposed bill would give the Navajo Tribe a form of tenure that would justify it in expending tribal funds to make needed improvements on the lands, such as water development. The bill would also enable the Pueblos of San Lorenzo and Pojoaque to dispose of lands for which they have no foreseeable use and to utilize the sales proceeds for improving their economic status.

The executive communication of the Department of the Interior recommending enactment of this legislation and the favorable report of the Bureau of the Budget follow:

UNITED STATES DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., February 8, 1955.

Hon. RICHARD M. NIXON,
President of the Senate,
Washington 25, D. C.

MY DEAR MR. PRESIDENT: There is transmitted herewith a draft of a proposed bill to authorize the Pueblos of San Lorenzo and Pojoaque in New Mexico to sell certain lands to the Navajo Tribe, and for other purposes.

We recommend that the proposed bill be referred to the appropriate committee for consideration, and we recommend that it be enacted.

The proposed bill would permit the Pueblo of San Lorenzo (also known as Picuris) and the Pueblo of Pojoaque to sell certain tribal lands in New Mexico to the Navajo Tribe. Statutory authority is requisite for this transfer because section 4 of the act of June 18, 1934 (48 Stat. 985; 25 U. S. C., 1952 edition, sec. 464), which applies to both Pueblos, prohibits the sale of tribal lands.

These lands were originally purchased for the Pueblos of Pojoaque and San Lorenzo with tribal trust funds on deposit in the United States Treasury that were made available for such use by the act of May 9, 1938 (52 Stat. 291, 299). They were acquired in three separate transactions in 1944. Tract No. 1 consisting of 28,886.16 acres was purchased by the United States in trust for the Pueblo of Pojoaque for a consideration of $57,772 32; tract No. 2 consisting of 26,726.28 acres was purchased by the United States in trust for the Pueblo of Picuris (i. e., San Lorenzo) for a consideration of $53,452.56. The minerals underlying these 2 tracts were reserved to the New Mexico & Arizona Land Co., the grantor under the 2 deeds, by the terms of the sales. Tract No. 3, consisting of a single section of 640 acres, was purchased by the United States in trust for the Pueblo of Pojoaque for a consideration of $3,620. The minerals underlying this land were reserved to the United States in the original patent to Walter T. Hall.

The lands are located in the portion of Valencia County, N. Mex., which, together with adjacent parts of McKinley County, is generally known as the Ramah area. They are distant some 230 and 280 miles from the Pueblos to which they respectively belong, and are interspersed among public lands, Navajo tribal lands, allotted Indian lands, lands owned by the State of New Mexico, and lands to which fee simple title is in private persons, both Indian and non-Indian.

The lands have not been used by the two Pueblos because of the distance, but they have been made available by the Pueblos through grazing permits to the Ramah Band of Navajo Indians, whose members live in the area and need additional lands. The governing bodies of the two Pueblos have agreed to sell these purchased lands to the Navajo Tribe at a price to be mutually agreed upon, and the Navajo Tribe desires to buy them. The Navajo Tribe would pay for the

UNIVERSITY OF MICHIGAN LIBRARIES

lands from its tribal funds. As title to the lands is already in trust, the contemplated transaction between these Indian groups would not result in a change in the present tax status.

Funds received by the two Pueblos from these sales would be deposited in the Treasury of the United States, to the credit of the Pueblo owning the particular lands sold, in the accounts established pursuant to section 19 of the act of June 7, 1924 (43 Stat. 636, 642). The funds so deposited, together with any other moneys in these accounts, would be available for expenditure, or for advance to the Pueblo entitled to such funds, for any purpose (except per capita payments) that is designated by the governing body of the Pueblo concerned and approved by the Secretary of the Interior. These provisions are similar to those contained in the act of May 9, 1938 (52 Stat. 291, 299), and other acts appropriating funds for deposit in the accounts established under the act of June 7, 1924.

The proposed bill would, in addition, enable the Navajo Tribe to consolidate its land holdings in the Ramah area into larger tracts by exchanging, with the approval of the Secretary of the Interior, the lands acquired from the two Pueblos for other lands in Valencia or McKinley Counties, thus simplifying administration. The sales and exchanges authorized by the proposed bill would give the Navajo Tribe a form of tenure that would justify it in expending tribal funds to make badly needed improvements on the lands, such as water development. The proposed bill would also enable the Pueblos of San Lorenzo and Pojoaque to dispose of lands for which they have no foreseeable use and to utilize the sales proceeds for improving their economic status.

The Bureau of the Budget has advised that there is no objection to the presentation of this proposed legislation to the Congress.

Sincerely yours,

ORME LEWIS,
Assistant Secretary of the Interior.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington 25, D. C., June 1, 1955.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington 25, D. C.

MY DEAR MR. CHAIRMAN: This is in response to your request for the views of the Bureau of the Budget with respect to S. 1906, to authorize the Pueblos of San Lorenzo and Pojoaque in New Mexico to sell certain lands to the Navajo Tribe, and for other purposes.

If enacted, S. 1906 would permit the Pueblo of San Lorenzo and the Pueblo of Pojoaque to sell certain tribal lands in New Mexico to the Navajo. Under existing law, neither of these two groups of Indians may sell tribal lands. Provision is also made in the bill to enable the Navajo Tribe to consolidate its holdings by exchanging the lands to be purchased.

It is understood that the three groups of Indians affected by the bill are in favor of its enactment.

You are advised that the Bureau of the Budget would have no objection to the enactment of S. 1906.

Sincerely yours,

DONALD R. BELCHER,
Assistant Director.

○

UNIVERSITY OF MICHIGAN LIBRARIES

Calendar No. 855

84TH CONGRESS, 1st Session | SENATE | REPORT No. 847

AUTHORIZING THE PURCHASE, SALE, AND EXCHANGE OF CERTAIN INDIAN LANDS ON THE YAKIMA INDIAN RESERVATION

JULY 13, 1955.—Ordered to be printed

Mr. JACKSON, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H. R. 1801]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 1801) to authorize the purchase, sale, and exchange of certain Indian lands on the Yakima Indian Reservation, and for other purposes, having considered the same, report favorably thereon without amendment and recommend tnat the bill do pass.

EXPLANATION OF THE BILL

The purpose of H. R. 1801 is to provide the authority and procedure by which the Secretary of the Interior, with the advice and consent of the Yakima Tribal Council, may use tribal funds to purchase Indian trust lands on the Yakima Reservation now in heirship status, and to make exchanges of such land.

One of the most perplexing problems confronting the Congress, the Bureau of Indian Affairs, and the Indian tribes, is the status of Indian land allotments which have descended from the original allottee to the decedent's heirs and devisees resulting in multiple ownership and uneconomic land utilization. Of the total 354,601 acres of land comprising the Yakima Reservation, approximately 200,000 acres is now in heirship status.

The Yakima Tribe desires, over a period of years, to expend approximately $100,000 of tribal funds annually to acquire allotments in an heirship status. Some of the allotments the tribe plans to purchase are in the timbered area of the reservation, and these lands would be retained in tribal ownership to round out existing tribal timber holdings which are managed on a sustained-yield basis. Agricultural lands which the tribe plans to purchase would be resold to individual members of the tribe who are landless, including returning servicemen, and

those Indians who are losing their livelihood at the Cecilo Falls fishing site due to the construction of the Dalles Dam in the Columbia River.

The consolidation of landholdings authorized under H. R. 1801 will improve the economic status of individual members of the Yakima Tribe and facilitate a sound and constructive program for the improvement of their land economy without Federal financing. This legislation will not result in removal of any lands from a taxable status.

Enactment of H. R. 1801 is requested by the Yakima Tribal Council and the Bureau of Indian Affairs. The committee is satisfied that it will, locally at least, aid in solving the heirship problem.

The favorable reports of the Department of the Interior and the Bureau of the Budget on S. 1603, a companion to H. R. 1801, follow:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington 25, D. C., May 3, 1955.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington 25, D. C.

MY DEAR SENATOR MURRAY: Your committee has requested a report on S. 1603, a bill to authorize the purchase, sale, and exchange of certain Indian lands on the Yakima Indian Reservation, and for other purposes.

We recommend that the bill be enacted.

This bill provides the authority and a procedure for the Secretary of the Interior, with the advice and consent of the Yakima Tribal Council, to use tribal funds to purchase Indian trust lands on the Yakima Reservation in Washington, including those in heirship status, to sell them to those Yakima Indians who desire to engage in agricultural pursuits, and to make exchanges of such lands. This consolidation of land holdings will improve the economic status of individual members of the tribes, and relieve the Bureau of Indian Affairs in a large measure from the cost of the management of these lands. The legislation is in accord with the wishes of the Yakima Indian Tribes of the Yakima Indian Reservation.

About two-thirds of the total of 354,601 acres of land, which have been allotted to individual Indians on the Yakima Reservation, is now in heirship status. Approximately one-half of the lands held by the heirs of the original allottees is owned by six or more individuals. The highly fractionated heirship status of these lands makes their utilization by any one of the heirs difficult, if not impossible. With the deaths of successive generations of heirs, these conditions are progressively deteriorating.

We are informed by members of the Yakima Tribal Council, the tribal governing body, and by the superintendent of the Yakima Indian Agency that the tribes desire, over a period of years, to expend approximately $100,000 of their tribal funds annually to acquire the allotments in an heirship status. Some of the allotments which the tribes plan to purchase are those in the timbered area of the reservation. These lands would be retained in tribal ownership to round out existing tribal timber holdings which are managed on a sustained-yield basis. Other allotments which the tribe plans to acquire are those in the agricultural area of the reservation. These lands would be resold to the individual members of the tribes. Sufficient tribal funds are available to set up a tribal credit fund from which loans would be made to individual members to finance their purchases of lands from the tribes.

Recent surveys by the Bureau of Indian Affairs show that there are approximately 3,350 members of the Yakima Indian Tribes, for whom the Federal Government assumes some responsibility, who live on or near the Yakima Reservation. Some 700 Yakima Indians are landless. Although it is unlikely that all of the landless Indians would actively engage in agriculture, nevertheless many of them, including members returning from the armed services of the United States, desire to settle on the land. Others for whom such provision should be made include a number of Yakima Indian fishermen and their families who now face the loss of their livelihood by the inundation of the Celilo Falls fishing site, which will be destroyed by the construction of the Dalles Dam in the Columbia River.

UNIVERSITY OF MICHIGAN LIBRARIES

The bill would authorize the Yakima Tribes to carry out a sound and constructive program for the improvement of their land economy without Federal financing. This program will assist in the eventual assumption by these Indian people of the management of their own affairs. The legislation will not result in removal of any lands from a taxable status. Section 3 (b) of this bill provides that the purchase of land shall not affect its existing status with respect to taxation.

The Bureau of the Budget has advised that there is no objection to the presentation of this report to your committee.

Sincerely yours,

FRED G. AANDAHL,
Assistant Secretary of the Interior.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington, D. C., April 25, 1955.

Hon. JAMES E. MURRAY,
Director, Committee on Interior and Insular Affairs,
United States Senate,
Senate Office Building, Washington, D. C.

MY DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Bureau on S. 1603, to authorize the purchase, sale, and exchange of certain Indian lands on the Yakima Indian Reservation, and for other purposes.

The enactment of this legislation would provide the necessary authority and procedure for the Secretary of the Interior, with the consent of the Yakima Tribal Council, to use Indian tribal funds to purchase trust lands on the Yakima Reservation, Wash., including those in heirship status, and to sell such lands to reservation Indians who desire to engage in agriculture. Exchange of lands is also authorized. The consolidation of landholdings on this reservation should substantially improve the economic status of the individual members of the tribe. At the same time the Bureau of Indian Affairs would be relieved to a large extent from the cost of management of such lands. It is the understanding of this Bureau that the legislation has the endorsement of the Yakima Indians who have expressed a willingness to expend a substantial portion of their own money to acquire allotments in heirship status.

The Bureau of the Budget has no objection to the enactment of S. 1603. This bill is a companion to H. R. 1801 passed by the House of Representatives on March 15, 1955, and now pending before your committee.

Sincerely yours,

DONALD R. BELCHER,
Assistant Director.

○

UNIVERSITY OF MICHIGAN LIBRARIES

Calendar No. 856

84TH CONGRESS, 1st Session | SENATE | REPORT No. 848

AUTHORIZING THE LEASING OF CERTAIN LANDS OF THE YAKIMA TRIBE TO THE STATE OF WASHINGTON FOR HISTORICAL AND FOR PARK PURPOSES

JULY 13, 1955.—Ordered to be printed

Mr. JACKSON, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany H. R. 1802]

The Committee on Interior and Insular Affairs, to whom was referred the bill (H. R. 1802) to authorize the leasing of certain lands of the Yakima Tribe to the State of Washington for historical and for park purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

EXPLANATION OF THE BILL

H. R. 1802 authorizes the Yakima Tribal Council to lease to the State of Washington approximately 200 acres of tribal land for the purpose of developing, maintaining, and preserving Fort Simcoe (Mool-Mool) for historical and park purposes.

Fort Simcoe was 1 of 2 interior Washington Territory Army posts established as a result of Indian hostilities that started in the fall of 1855 and ended in September 1858. Gens. George B. McClellan and Phil Sheridan served at Fort Simcoe as young officers following graduation from West Point. From 1859 to 1924 the fort was utilized as an Indian agency and school.

The Yakima Tribe, the Washington State Parks and Recreation Commission, and the National Park Service entered into an understanding in 1952 by which the tribe would grant the State parks and recreation commission a long-term permit or easement over a suitable tract of land around Fort Simcoe for the development and preservation of the site as a State historical monument.

Under the terms of the act of August 9, 1946, the Yakima Tribe is restricted to the issuance of leases on reservation lands for periods of 25 years or less. The State of Washington intends to spend a con-

siderable amount of money to renovate and maintain Fort Simcoe, and is reluctant to expend such sums on a 25-year basis.

The bill would authorize the Yakima Tribe to lease the necessary land, for the purposes stated above, for a period of 99 years upon agreement of the parties. If the State of Washington ever ceases to maintain Fort Simcoe (Mool-Mool) for historical and park purposes, the lease entered into under this legislation would be null and void. The committee understands that the Yakima Indians and the State of Washington are in complete agreement on this legislation.

The favorable report of the Department of the Interior dated April 25, 1955, is as follows:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington, D. C., April 25, 1955.

Hon. CLAIR ENGLE,
Chairman, Committee on Interior and Insular Affairs,
House of Representatives, Washington, D. C.

MY DEAR MR. ENGLE: Your committee has requested a report on H. R. 1802, a bill to authorize the leasing of certain lands of the Yakima Tribe to the State of Washington for historical and for park purposes.

We recommend that the bill be enacted if it is amended as suggested below.

The bill authorizes the Yakima Tribal Council to lease to the State of Washington approximately 200 acres of tribal land for the purpose of developing, maintaining, and preserving Fort Simcoe (Mool-Mool) for historical and for park purposes. The lease will become null and void and the Yakima Tribe will have the right of immediate possession if the State of Washington ever ceases to maintain Fort Simcoe (Mool-Mool) for historical and for park purposes; and the lease will be for a term of 99 years with the right of renewal for an additional term upon agreement of the parties thereto.

A memorandum of understanding dated May 7, 1952, between the Yakima Tribe, the Washington State Parks and Recreation Commission, and the National Park Service provided that the Yakima Tribe would grant to the State parks and recreation commission a permit or easement over a suitable tract of tribal land around Fort Simcoe, that the State commission would use the land for the preservation and development of Fort Simcoe (Mool-Mool) as a State historical monument, and that the permit or easement would continue in effect as long as the land was used for historical park purposes.

Although the memorandum of understanding is dated May 7, 1952, it did not have the necessary signatures or approvals until about April 15, 1953, and before that time it was amended to provide only for a 25-year permit or easement. The amendment was due to the fact that the tribe had no statutory authority to grant a lease for a longer term than 25 years.

The State intends to spend a considerable sum of money to renovate the fort and to maintain it as a State park, and the State is reluctant to make such expenditures on the basis of a 25-year lease. The State desires a longer term lease but we are not informed whether a 99-year lease will serve its purposes.

The Yakima Tribe is agreeable to a 99-year lease on a 200-acre tract if the necessary legislation is enacted.

The following amendment is suggested:

Subsection 2 (2) beginning on page 2, line 9, provides for a 99-year lease with a right to renew for an additional term by agreement of the parties. It is not clear whether the additional term is also to be for a period of 99 years. The reference to a right to renew upon agreement of the parties is surplusage and might appropriately be omitted. If it is not omitted, there should be inserted after "term" on line 11 the words "of ninety-nine years."

The Bureau of the Budget has advised us that there is no objection to the submission of this report to your committee.

Sincerely yours,

ORME LEWIS,
Assistant Secretary of the Interior.

O

UNIVERSITY OF MICHIGAN LIBRARIES

Calendar No. 857

84TH CONGRESS, 1st Session } SENATE { REPORT No. 849

CONTINUING THE INDIAN CLAIMS COMMISSION TO APRIL 10, 1962

JULY 13, 1955.—Ordered to be printed

Mr. MURRAY, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany S. 1746]

The Committee on Interior and Insular Affairs, to whom was referred the bill (S. 1746) continuing the Indian Claims Commission to April 10, 1962, having considered the same, report favorably thereon without amendment and with the recommendation that the bill do pass.

EXPLANATION OF THE BILL

The purpose of S. 1746 is to provide for the continuation of the Indian Claims Commission to April 10, 1962, or such earlier time as it shall have made its final report to Congress on all claims filed with it.

The Indian Claims Commission was established to provide for a final disposition of all claims of Indian tribes against the United States that existed on the date of the act of August 13, 1946 (60 Stat. 1049). The Indian tribes were given 5 years within which to file their claims, and the Commission was given an additional 5⅔ years within which to adjudicate the claims. The life of the Commission will terminate on April 10, 1957.

The Indian tribes have filed 852 claims with the Commission and 102 of these have been disposed of. Seven hundred and fifty claims are still pending in various stages of adjudication. It is highly improbable that the Indian Claims Commission can complete its work within the 2 year period that remains under the present law.

Your committee believes that extension of the life of the Commission, as provided in S. 1746, is desirable in order that all the claims which the Indians have filed may be properly heard. However, in order that there may be no misunderstanding of the intent of the bill, the committee will emphasize that it is not in any way sympathetic with proposals which have been introduced that would grant Indian tribes additional time within which to file claims.

The reports of the Department of the Interior and the Bureau of the Budget favoring the continuation of the Indian Claims Commission follow:

DEPARTMENT OF THE INTERIOR,
OFFICE OF THE SECRETARY,
Washington 25, D. C., June 8, 1955.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
United States Senate,
Washington 25, D. C.

MY DEAR SENATOR MURRAY: Your committee has requested a report on S. 1746, a bill to continue the existence of the Indian Claims Commission to April 10, 1962, or such earlier time as it shall have made its final report to Congress on all claims filed with it. Under the present law (sec. 23, act of August 13, 1946, 64 Stat. 1049), the life of the Commission will terminate on April 10, 1957.

The Indian Claims Commission was established to provide for a final disposition of all claims of Indian tribes against the United States that existed on the date of the act of August 13, 1946. The Indian tribes were given 5 years within which to file their claims, and the Commission was given an additional 5½ years within which to adjudicate the claims.

We understand that 852 claims were filed, that 102 of them have been disposed of, and that 750 of them are still pending in various stages before the Commission. We also understand that it is highly improbable that the Commission can complete its work within the 2-year period that remains under the present law.

Under these circumstances we believe that some extension of the life of the Commission is justified, but we are not in a position to recommend a specific date. That date should be determined on the basis of the information developed by the committee hearings. The termination of the Commission before it has had an adequate opportunity to finish its work would be unfair to the Indians who have filed their claims and who have no other forum available for the adjudication of the claims, and it would undoubtedly result in multiple requests to Congress for special jurisdictional acts. As both the Indians and the Government have a substantial investment of money and time in the examination of these claims, the Commission should be allowed to conclude them within a reasonable period.

The Bureau of the Budget has advised us that there is no objection to the submission of this report to your committee.

Sincerely yours,

FRED G. AANDAHL,
Assistant Secretary of the Interior.

EXECUTIVE OFFICE OF THE PRESIDENT,
BUREAU OF THE BUDGET,
Washington 25, D. C., May 31, 1955.

Hon. JAMES E. MURRAY,
Chairman, Committee on Interior and Insular Affairs,
United States Senate, Washington 25, D. C.

MY DEAR MR. CHAIRMAN: Reference is made to your request for the views of this Bureau on S. 1746, continuing the Indian Claims Commission to April 10, 1962

Since the establishment of the Indian Claims Commission authorized by the act of August 13, 1946, approximately 852 claims have been filed. The Indian tribes were given 5 years in which to file their claims, with the Commission having more than 5 years additional within which to adjudicate such claims. As of now slightly over 100 claims have been settled with about 750 still pending in various stages of completion. It is quite evident from the progress so far made that the Commission cannot complete its work by April 10, 1957.

This Bureau would offer no objection to extending the life of the Commission for such time as may be deemed necessary for it to finish its work.

In this connection there have been proposals to grant Indian tribes additional time within which to file claims. It is our belief that the 5-year period allowed for the filing of claims was sufficient. We could not support legislation which would permit additional claims to be filed.

Sincerely yours,

DONALD R. BELCHER, *Assistant Director.*

UNIVERSITY OF MICHIGAN LIBRARIES

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill (S. 1746), as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets; new matter is printed in italics; existing law in which no change is proposed is shown in roman).

ACT OF AUGUST 13, 1946 (60 STAT. 1049)

* * * * * * *

SEC. 23. [The existence of the Commission shall terminate at the end of ten years after the first meeting of the Commission or at such earlier time after the expiration of the five-year period of limitation set forth in section 12 hereof as the Commission shall have made its final report to Congress on all claims filed with it. Upon its dissolution the records of the Commission shall be delivered to the Archivist of the United States.] *The existence of the Commission shall terminate on April 10, 1962, or at such earlier time as the Commission shall have made its final report to Congress on all claims filed with it. Upon its dissolution the records of the Commission shall be delivered to the Archivist of the United States.*

* * * * * * *

○

UNIVERSITY OF MICHIGAN LIBRARIES

Calendar No. 859

84TH CONGRESS, 1st Session | SENATE | REPORT No. 850

AUTHORIZING THE DUAL EMPLOYMENT OF CUSTODIAL EMPLOYEES

JULY 13, 1955.—Ordered to be printed

Mr. JOHNSTON of South Carolina, from the Committee on Post Office and Civil Service, submitted the following

REPORT

[To accompany S. 2403]

The Committee on Post Office and Civil Service, to whom was referred the bill (S. 2403) to authorize the dual employment of custodial employees in post-office buildings operated by the General Services Administration, and for other purposes, having considered the same, report favorably thereon without amendment and recommend that the bill do pass.

STATEMENT

This legislation was requested by the Post Office Department. Its purpose is to permit the Post Office Department to utilize the services of custodial employees employed by the General Services Administration on a part-time basis. Formerly when the employees concerned were under the jurisdiction of the postal service, they could be employed in a dual capacity and could be paid compensation at the rate provided for both positions. Since they were transferred to the jurisdiction of the General Services Administration, this arrangement has not been possible. They were of particular value and were used to advantage during the Christmas season. All of these employees have had postal experience and are particularly valuable during peak periods.

AGENCY VIEWS

Following is the letter from the Post Office Department regarding this legislation:

OFFICE OF THE POSTMASTER GENERAL,
Washington 25, D. C., June 24, 1955.

Hon. RICHARD M. NIXON,
President of the United States Senate.

DEAR MR. PRESIDENT: There is transmitted herewith, for consideration by the Congress, proposed legislation to authorize the dual employment of custodial employees in post-office buildings operated by the General Services Administration, and for other purposes.

The Postmaster General, when the needs and the interests of the postal service require, now has authority to employ mail messengers and postal employees in a dual capacity notwithstanding the provisions of sections 58, 69, and 70 of title 5, United States Code.

Many employees of the General Services Administration were formerly under the jurisdiction of the postal service when it operated all Government buildings which were occupied in whole or in part by the postal service. When these employees were under the jurisdiction of the postal service they could be employed in a dual capacity and could be paid compensation at the rate provided for both positions. They were of particular value and were used to advantage during the Christmas season. The Department engaged them on mail-handling operations in a dual capacity until they were transferred to the General Services Administration. With the transfer of buildings where the Post Office Department occupied less than 50 percent of the space under Reorganization Plan 18 of 1950 (15 F. R. 3177), the services of these employees were lost.

These employees, having had postal experience, are valuable during peak periods. This legislative proposal will permit custodial employees in post-office buildings under the jurisdiction of the General Services Administration to render dual service as classified cleaners and in other capacities, as postal employees are permitted to do under the provisions of section 136, title 39, United States Code.

It is believed that the legislative proposal will accomplish the desired results, and its early enactment is recommended.

The Bureau of the Budget has advised that there would be no objection to the submission of this legislative proposal to Congress.

Sincerely yours,

ARTHUR E. SUMMERFIELD,
Postmaster General.

○

UNIVERSITY OF MICHIGAN LIBRARIES

Calendar No. 860

84TH CONGRESS, 1st Session | SENATE | REPORT No. 852

AUTHORIZING THE SECRETARY OF THE INTERIOR TO LEASE ANY UNASSIGNED LANDS ON THE COLORADO RIVER INDIAN RESERVATION, ARIZ.

JULY 13, 1955.—Ordered to be printed

Mr. GOLDWATER, from the Committee on Interior and Insular Affairs, submitted the following

REPORT

[To accompany S. 2039]

The Committee on Interior and Insular Affairs, to whom was referred the bill (S. 2039) to authorize the Secretary of the Interior to lease any unassigned lands on the Colorado River Indian Reservation, Ariz., and for other purposes, having considered the same, report favorably thereon with amendments and with the recommendation that the bill, as amended, do pass.

The amendments are as follows:

On page 1, line 4, after the word "lease" strike out the words "for a term of not to exceed twenty-five years with an option to renew for an additional term of twenty-five years".

On page 1, line 9, after the word "tributaries" strike out the period and insert a comma, and the following:

for public, religious, educational, recreational, residential, or business purposes, including the development or utilization of natural resources in connection with operations under such leases, and for those farming purposes which require the making of a substantial investment in the improvement of the land for the production of specialized crops as determined by said Secretary. All leases so granted shall be for a term of not to exceed twenty-five years, but leases for public, religious, educational, recreational, residential, or business purposes with the consent of both parties may include provisions authorizing their renewal for an additional term of not to exceed twenty-five years, and all leases and renewals shall be made under such terms and regulations as may be prescribed by the Secretary of the Interior.

EXPLANATION OF THE BILL

S. 2039, as amended, authorizes the Secretary of the Interior to lease any unassigned lands on the Colorado River Indian Reservation for a period of 25 years for public, religious, educational, recreational,

residential, or business purposes, including the development or utilization of natural resources in connection with operations under such leases. In addition these lands could be leased for farming purposes which require the making of substantial investment in the improvement of raw land for the production of specialized crops. All leases granted under the terms of this act shall be for a term of not to exceed 25 years, but the leases for public, religious, educational, recreational, residential, or business purposes with the consent of both parties may include provisions authorizing their renewal for an additional term of not to exceed 25 years. This authority is limited to a 2-year period after the enactment of the bill. It is the intent of the bill that income received during this 2-year period from land in the Northern Reserve may be expended for the benefit of the Colorado River Indian Tribes and their members in the Northern Reserve. Income received for the 2-year period from leases of land in the Southern Reserve may be expended for the development of the land in the Southern Reserve. All income received after the 2-year period will be held in a special account until the beneficial ownership of the land has been determined.

This bill is a temporary expedient intended to meet an immediate need for leasing the land while Congress has an opportunity to resolve a long-standing controversy over the ownership of the land. The bill was introduced after hearings before the Subcommittee on Indian Affairs, and it embodies the substance of an agreement reached by the Department of the Interior and the delegates of the tribes of the Colorado River Reservation.

The enactment of S. 2039 is desirable because the title controversy has created substantial doubt about anyone's authority to lease the unassigned lands of the reservation. Such leases are needed in order to provide for the subjugation of the lands by the lessee and the beneficial use of water necessary in order to protect the Indian water rights, and to provide additional needed income to the Indians.

It is contemplated that separate legislation, designed to resolve the controversy over the title to the land, will be introduced, and that the 2-year authority contained in S. 2039 is reasonable time for resolving the dispute.

While there is no formal departmental report on this bill the committee held hearings, at which time the Indian representatives of the Colorado River Reservation and officials of the Bureau of Indian Affairs appeared to testify on the problem concerning the lands on this reservation. S. 2039 was substantially drafted by the Indians and officials of the Indian Bureau and both groups recommend that the bill be enacted.

O

UNIVERSITY OF MICHIGAN LIBRARIES

Calendar No. 861

84TH CONGRESS, 1st Session | SENATE | REPORT No. 853

AMENDING THE LONGSHOREMEN'S AND HARBOR WORKERS' COMPENSATION ACT, AS AMENDED, TO PROVIDE INCREASED BENEFITS IN CASE OF DISABLING INJURIES, AND FOR OTHER PURPOSES

JULY 13, 1955.—Ordered to be printed

Mr. DOUGLAS, from the Committee on Labor and Public Welfare, submitted the following

REPORT

[To accompany S. 2280, as amended]

The Committee on Labor and Public Welfare, having had under consideration measures to amend the Longshoremen's and Harbor Workers' Compensation Act of March 4, 1927, as amended (33 U. S. C. 901 et seq.), report favorably on S. 2280 with amendments, and recommend that the bill, as amended, do pass.

GENERAL STATEMENT

The major purpose of the bill S. 2280 is to modify certain provisions of the Longshoremen's and Harbor Workers' Compensation Act pertaining to the amount of benefits payable to injured workers or to the families of deceased workers in disability and death cases arising under this workmen's compensation law.

The Longshoremen's Act covers workers who are engaged in employments within the exclusive Federal admiralty and maritime jurisdiction in the United States, in Hawaii, and in Alaska. The principal categories of workers are as follows: Longshoremen or stevedores, ship repairmen, ship servicemen, harbor workers, and other workers on the navigable waters of the United States, but excluding seamen.

The Longshoremen's Act is also the basic workmen's compensation law for employees privately employed in the District of Columbia, it having been extended to those employees by the act of May 17, 1928, as amended (36 D. C. Code 501); and it is the basic law covering employees of contractors with the United States engaged in manifold employments outside continental United States, it having been ex-

tended to them by the Defense Base Act of August 16, 1941 (42 U. S. C. 1651). Whatever changes are made in the Longshoremen's Act will, without further legislative action, bring about equivalent changes in the two laws mentioned.

The benefits payable under these laws are provided by private insurance or self-insurance arranged by private employers in the same manner as in any typical State workmen's compensation law. The Government does not pay the benefits under the Longshoremen's Act.

The basic purpose of the act is to provide most covered workers with substantially two-thirds of their wages when totally incapacitated by industrial accident. Unless the maximum and minimum compensation rate levels are adjusted by legislative action as circumstances require, the security of the workers becomes impaired and the workmen's compensation law loses its effectiveness. This is not only an inequitable result, but the situation tends to lead to industrial disputes by triggering demands for nonstatutory supplementary benefits from employers to make up the deficit. The redressing of benefit levels is accordingly a necessary function of government designed to carry out the basic purposes of the act.

CHANGES IN MAXIMUM AND MINIMUM COMPENSATION

According to information obtained by the committee the west coast longshoremen have been averaging close to $100 per week in wages, and the wages at points on the east coast closely follow at around $92 per week. Average weekly wages in manufacturing in the District of Columbia amount to $86 per week. The committee feels that under these circumstances a $50 weekly maximum compensation rate is fully warranted. This $50 per week is the ceiling or maximum weekly compensation for disability or death, the actual benefits for total disability dropping downward from that amount as the weekly wage rate of variously paid employees drops below $75.

In addition to a ceiling compensation the statute provides a floor by which to maintain a minimum level of compensation for low-paid employees. This floor is designed to keep the compensation rate from ceasing to have effective value as security for disabled workers or their dependents. The committee accordingly has considered the purposes of the floor (or lower limit of compensation) and recommends that it be increased from $12 per week to $18 per week, an increase which is substantially in line with the proportion by which the ceiling is increased. There is, of course, a provision in the statute that no employee shall receive more weekly compensation than his weekly wage so that compensation could not exceed the wage in any situation, even as regards the lowest paid employee.

SHORTENING OF WAITING PERIOD

The committee also recommends that the waiting period be shortened from 7 to 3 days. Under most laws, unless disability lasts a certain number of days, no compensation is payable for the waiting period. At least one State (Oregon) has no waiting period. In other State laws that period ranges from 3 days to 7 days. The Congress has established a 3-day waiting period in the Federal Employees'

UNIVERSITY OF MICHIGAN LIBRARIES

Compensation Act and the committee believes that it is more equitable than the period of 7 days.

The committee recommends that the period of protracted disability which must elapse before the time lost during the waiting period becomes compensable, should be reduced from the present 49 days to 28 days. The waiting period is designed more as an administrative convenience than as a necessary provision by which equitably to determine or measure benefits. The committee believes 49 days to be excessive. (The Federal Employees' Compensation Act has the shorter period of 21 days.) A 49-day period is to be found in only one State law; most of them provide a lesser period, some as low as 5 days.

CHANGES IN SCHEDULE FOR PERMANENT PARTIAL DISABILITY

The Longshoremen's Act contains provision for the payment of compensation in permanent partial disability cases, for the loss or loss of use of certain specified members or functions of the body, such as an arm, hand, leg, foot, eye, finger, etc. This provision is known as a schedule. The committee recommends restoration of the scheduled payments to the same levels as existed when the act was first enacted in 1927. At that time, the Longshoremen's Act placed an arbitrary length to the period for which compensation could be paid for temporary total disability. For example, the act in 1927 provided that if an employee's leg was injured and had to be amputated he could receive only 40 weeks' compensation for the time of healing or convalescence, plus the schedule value of the leg (then 288 weeks). In 1934 the act was amended to eliminate this arbitrary healing period, so that an employee could be paid temporary total disability compensation for the full duration of the disability during the healing. But in removing this inequity the scheduled value of the member itself was reduced by this former arbitrary healing period. The committee is eliminating this inequitable secondary effect by recommending restoring the schedule to its original levels. It should also be noted that the schedule proposed by the bill will accord precisely with the permanent partial disability schedule in the Federal Employees' Compensation Act.

ADDITIONAL USES FOR SPECIAL FUND

Another proposal of significance is to enlarge the uses of the special fund established under section 44 of the Longshoremen's Act. That fund consists of payments collected from insurers or self-insurers in death cases in which there are no dependents entitled to benefits. The amount of $1,000, to be paid in all cases of death when no person is found entitled to compensation, was fixed in 1927 when the act was originally enacted. This fund (and the similar funds established under the extensions of the Longshoremen's Act mentioned above) has over the years had substantial accretions and the outlay for present purposes does not use all of the increments.

The committee proposes that this fund continue to be used to pay compensation to employees who are totally disabled as a result of a second injury compensable under the act and that a priority be established for payments from the special fund for this purpose. Further,

the maximum allowance which employees who are undergoing rehabilitation may receive is increased from $10 to $25 a week. Rehabilitation services available to injured employees who are covered by the act will also be improved by authorizing the Secretary of Labor to use the special fund to procure such services where in exceptional cases they are not available through existing facilities. The Secretary of Labor also will be permitted to use the special fund for administrative expenses in such amounts as are authorized in annual appropriations for the purpose of encouraging and assisting employees to obtain rehabilitation. It is proposed further that this fund be used when appropriate to provide compensation for those cases—fortunately few in number—in which collection of benefits from the employer has failed by reason of insolvency or other condition precluding collection. The new and additional uses of this fund will greatly increase its value to disabled workers, without impairing the originally intended "second-injury" purpose.

The committee recommends that S. 2280 be favorably acted upon as amended by the committee. The changes in the Longshoremen's Act are long overdue and urgently needed to make this law actively effective for the purpose for which it is designed.

SECTIONAL ANALYSIS

Section 1 of the bill, as reported by the committee, amends section 6 (a) of the Longshoremen's and Harbor Workers' Compensation Act, as amended, so as to reduce the waiting period from 7 to 3 days, and to shorten the period of protracted disability, which must elapse before the compensation for the waiting period may be paid, from 49 to 28 days.

Section 1 of the bill also amends section 6 (b) of the Longshoremen's Act by increasing the ceiling or maximum weekly compensation from $35 to $50 per week, and by increasing the floor or minimum weekly compensation from $12 per week to $18 per week.

Section 2 of the bill amends the schedule in section 8 (c) (1) to (12), inclusive, of the Longshoremen's Act by increasing the number of weeks' compensation payable for the specified losses (of members of the body, such as hand, arm, leg, eye, finger, etc.) to the same levels as were fixed in the Longshoremen's Act at the time of its original enactment in 1927.

Section 3 of the bill amends section 8 (g) of the Longshoremen's Act by authorizing not to exceed $25 per week as an expense allowance for employees undergoing vocational rehabilitation. The present statute authorizes not to exceed $10 which is wholly inadequate for the intended purpose. The allowance is payable out of the special fund established under section 44 of the Longshoremen's Act.

Section 4 amends section 9 (e) of the Longshoremen's Act so as to adjust the wage ceiling and wage floor upon which benefits for death are computed, in conformity with the change recommended in section 1 of the bill.

Section 5 repeals section 14 (m) of the Longshoremen's Act. Section 14 (m) originally (in 1927) contained a maximum aggregate limitation upon compensation for disability or death. In 1948 the limitation was partially removed—that is, in cases of permanent total disability and in cases of death—with a remaining limitation of

UNIVERSITY OF MICHIGAN LIBRARIES

$10,000 and in certain cases $11,000. Any limitation terminating compensation before the termination of disability constitutes a departure from the basic principle of workmen's compensation, which is wage restoration. Limitations of this kind cannot be justified as in support of the purposes for which these acts are devised. About 95 percent of injury cases involve disability payments for temporary periods. About 4½ percent of the cases involve permanent total or permanent partial disability, with only about one-half of 1 percent of the total ultimately becoming death cases. Limitations such as would be removed cast the burden of their incidence upon the few cases in which the loss is the greatest to the worker. There is no limitation in the Federal Employees' Compensation Act equivalent to that in section 14 (m).

Section 6 amends section 18 by inserting "(a)" at the beginning of the section and adding a new "(b)" subsection designed to provide benefits for the occasional beneficiaries who are unfortunate enough not to be able to collect their compensation from the employer or his insurer. This new provision would permit use of the money in the special fund established under section 44 of the Longshoremen's Act for this additional worthwhile purpose:

The special fund is augmented by payments of $1,000 in all cases of death where no person is found entitled to compensation. Fines and penalties collected under the act are paid into this fund. The new provision safeguards the original purposes of the fund and states a priority in respect to "second injury" payments. The Secretary of Labor would in cases paid from the fund be subrogated to the rights of the employee in respect to compensation in default and may pursue a claim against the employer to enforce collection. Medical expense in disability cases could likewise be paid.

Section 7 of the bill amends section 39 (c) of the Longshoremen's Act by changing the last word in the first sentence from "education" to "rehabilitation," a more appropriate word.

Section 7 further amends section 39 (c) by adding a sentence designed to authorize use of the special fund to provide additional services, necessary appliances, or apparatus needed by employees undergoing rehabilitation. This authority was found needed in order to make such help available in the few cases where local rehabilitation facilities were financially or otherwise incapable of providing a service, appliance, or apparatus which a particular rehabilitation case should require. This provision is designed to provide the means by which to supplement where necessary the services of existing State and other facilities, using those facilities wherever possible.

Section 8 makes the necessary language and reference changes in section 44 of the Longshoremen's Act to coincide with the changes made by sections 6 and 7 of the bill and to accommodate those changes.

Section 9 of the bill amends no provision of the Longshoremen's Act but provides the transitional provision specifying the effective date. In applying the new levels, cases of injury which occurred prior to enactment would continue to be paid at the levels in existence when the injury occurred. The same would be true in death cases where death preceded enactment. In cases of death where the death occurs after enactment, but the injury occurred prior to enactment, the death award would be made under the amended provisions. This latter is in accord with the present state of the law which recognizes that death is a circumstance giving rise to a right of recovery in

dependents separate and apart from the right of the employee to disability benefits.

This section also provides that notwithstanding the provisions of the act of December 2, 1942 (42 U. S. C. 1701), the amendments to the Longshoremen's Act shall not be retroactive, but shall apply only to injuries and deaths occurring on or after the date of enactment of S. 2280. This reference to the act of December 2, 1942, is directed at section 102 of that act as amended by section 4 (c) of the War Claims Act of 1948. In the amendment in that act, a proviso was included to the effect that any future amendments to the Longshoremen's Act, the effect of which is to increase the amount of the benefits for injury or death, shall be effective in cases covered by the 1942 act retrospectively from the date of the injury or the death. Without the prohibition in S. 2280 above referred to, any increases in the maximum weekly compensation rate to $50 would have to be applied in the old cases which arose from 1942 on and from the original date of injury or death, at that. Thus beneficiaries would receive a windfall consisting of the difference between the new $50 per week in maximum cases, and the old rate at which compensation was paid prior to enactment of the present bill; the difference would be received covering a back period of some 13 years. This kind of retroactive provision in the act referred to is not warranted by any circumstance known to the committee and so far as is known is a unique and discriminatory retroactive provision. It is the committee's intention that no monetary benefits accruing by reason of the enactment of S. 2280 shall be increased by reason of the provisions of section 102 of said act of December 2, 1942, as amended.

CHANGES IN EXISTING LAW

In compliance with subsection (4) of rule XXIX of the Standing Rules of the Senate, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

AN ACT To provide compensation for disability or death resulting from injury to employees in certain maritime employments, and for other purposes

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

* * * * * * *

TIME FOR COMMENCEMENT OF COMPENSATION

* * * * * * *

MAXIMUM AND MINIMUM COMPENSATION

SEC. 6. (a) No compensation shall be allowed for the first [seven] *three* days of the disability, except the benefits provided for in section 7: *Provided, however,* That in case the injury results in disability of more than [forty-nine] *twenty-eight* days, the compensation shall be allowed from the date of the disability.

(b) Compensation for disability shall not exceed [$35] *$50* per week and compensation for total disability shall not be less than [$12] *$18* per week: *Provided, however,* That, if the employee's average weekly wages, as computed under section 10, are less than [$12] *$18* per week, he shall receive as compensation for total disability his average weekly wages.

* * * * * * *

SEC. 8. (c) Permanent partial disability: In case of disability partial in character but permanent in quality the compensation shall be 66⅔ per centum of the average weekly wages, which shall be in addition compensation for temporary

UNIVERSITY OF MICHIGAN LIBRARIES

total disability or temporary partial disability paid in accordance with subdivision (b) or subdivision (e) of this section respectively and shall be paid to the employee, as follows:

(1) Arm lost, [two hundred and eighty] *three hundred and twelve* weeks' compensation.

(2) Leg lost, [two hundred and forty-eight] *two hundred and eighty-eight* weeks' compensation.

(3) Hand lost, [two hundred and twelve] *two hundred and forty-four* weeks' compensation.

(4) Foot lost, [one hundred and seventy-three] *two hundred and five* weeks' compensation.

(5) Eye lost, [one hundred and forty] *one hundred and sixty* weeks' compensation.

(6) Thumb lost, [fifty-one] *seventy-five* weeks' compensation.

(7) First finger lost, [twenty-eight] *forty-six* weeks' compensation.

(8) Great toe lost, [twenty-six] *thirty-eight* weeks' compensation.

(9) Second finger lost, [eighteen] *thirty* weeks' compensation.

(10) Third finger lost, [seventeen] *twenty-five* weeks' compensation.

(11) Toe other than great toe lost, [eight] *sixteen* weeks' compensation.

(12) Fourth finger lost, [seven] *fifteen* weeks' compensation.

* * * * * * *

(g) Maintenance for employees undergoing vocational rehabilitation: An employee who as a result of injury is or may be expected to be totally or partially incapacitated for a remunerative occupation and who, under the direction of the commission as provided by section 39 (c) of this Act, is being rendered fit to engage in a remunerative occupation, shall receive additional compensation necessary for his maintenance, but such additional compensation shall not exceed [$10] *$25* a week. The expense shall be paid out of the special fund established in section 44.

* * * * * * *

SEC. 9. (e) In computing death benefits the average weekly wages of the deceased shall be considered to have been not more than [$52.50] *$75* nor less than [$18] *$27* but the total weekly compensation shall not exceed the weekly wages of the deceased.

* * * * * * *

PAYMENT OF COMPENSATION

* * * * * * *

SEC. 14. * * *

[(m) The total compensation payable under this Act for injuries shall in no event exceed the sum of $11,000: *Provided*, That this subdivision shall not apply to cases of permanent total disability or death: *And provided further*, That in cases of disability compensable under paragraph (21) of subdivision (c) of section 8 the total compensation for such disability, and for any temporary total disability or temporary partial disability sustained in addition thereto, shall not exceed in the aggregate the sum of $10,000.]

* * * * * * *

COLLECTION OF DEFAULTED PAYMENTS

SEC. 18. (*a*) In case of default by the employer in the payment of compensation due under any award of compensation for a period of thirty days after the compensation is due and payable, the person to whom such compensation is payable may, within one year after such default, make application to the deputy commissioner making the compensation order or a supplementary order declaring the amount of the default. After investigation, notice, and hearing, as provided in section 19, the deputy commissioner shall make a supplementary order, declaring the amount of the default, which shall be filed in the same manner as the compensation order. In case the payment in default is an installment of the award, the deputy commissioner may, in his discretion, declare the whole of the award as the amount in default. The applicant may file a certified copy of such supplementary order with the clerk of the Federal district court for the judicial district in which the employer has his principal place of business or maintains an office, or for the judicial district in which the injury occurred. In case such principal place of business or office or place where the injury occurred is in the District of Columbia, a copy of such supplementary order may be filed with the clerk of the District Court of the United States for the District of Columbia. Such supplementary order of the deputy commissioner shall be final, and the court shall upon the filing of the copy enter judgment for the amount declared in default

by the snpplementary order if such supplementary order is in accordance with law. Review of the judgment so entered may be had as in civil suits for damages at common law. Final proceedings to execute the judgment may be had by writ of execution in the form used by the court in suits at common law in actions of assumpsit. No fee shall be required for filing the supplementary order nor for entry of judgment thereon, and the applicant shall not be liable for costs in a proceeding for review of the judgment unless the court shall otherwise direct. The court shall modify such judgment to conform to any later compensation order upon presentation of a certified copy thereof to the court.

(b) *In cases where judgment cannot be satisfied by reason of the employer's insolvency or other circumstances precluding payment, the Secretary of Labor may, in his discretion and to the extent he shall determine advisable after consideration of current commitments payable from the special fund established in section 44, make payment from such fund upon any award made under this Act, and in addition, provide any necessary medical, surgical, and other treatment required by section 7 of the Act in any case of disability where there has been a default in furnishing medical treatment by reason of the insolvency of the employer. Such an employer shall be liable for payment into such fund of the amounts paid therefrom by the Secretary of Labor under this subsection; and for the purpose of enforcing this liability, the Secretary of Labor for the benefit of the fund shall be subrogated to all the rights of the person receiving such payment or benefits, including the right of lien and priority provided for by section 17 of this Act, as against the employer and may by a proceeding in the name of the Secretary of Labor under section 18 or under subsection (c) of section 21 of this Act, or both, seek to recover the amount of the default or so much thereof as in the judgment of the Secretary is possible, or the Secretary may settle and compromise any such claim.*

* * * * * * *

ADMINISTRATION

SEC. 39. (c) The Secretary shall direct the vocational rehabilitation of permanently disabled employees and shall arrange with the appropriate public or private agencies in States or Territories, possessions, or the District of Columbia for such [education] *rehabilitation.* The Secretary may in his discretion furnish such prosthetic appliances or other apparatus made necessary by an injury upon which an award has been made under this Act to render a disabled employee fit to engage in a remunerative occupation. [If any surplus is left in any fiscal year in the fund provided for in section 44, such surplus may be used in subsequent fiscal years for the purposes of administration and investigation.] *Where necessary rehabilitation services are not available otherwise, the Secretary of Labor may, in his discretion, use the fund provided for in section 44 in such amounts as may be necessary to procure such services, including necessary prosthetic appliances or other apparatus. This fund shall also be available in such amounts as may be authorized in annual appropriations for the Department of Labor for the costs of administering this subsection.*

* * * * * * *

SPECIAL FUND

SEC. 44. (a) There is hereby established in the Treasury of the United States a special fund for the purpose of making payments in accordance with the provisions of subsections (f) and (g) of section 8 [of this Act.], *of subsection (b) of section 18, and of subsection (c) of section 39 of this Act.* Such fund shall be administered by the commission. The Treasurer of the United States shall be the custodian of such fund, and all moneys and securities in such fund shall be held in trust by such Treasurer and shall not be money or property of the United States.

* * * * * * *

(c) Payments into such fund shall be made as follows:

(1) Each employer shall pay $1,000 as compensation for the death of an employee of such employer resulting from injury where the deputy commissioner determines that there is no person entitled under this Act to compensation for such death. [Fifty per centum of each such payment shall be available for the payments under subdivision (f) of section 8, and 50 per centum shall be available for payments under subdivision (g) of section 8.] *The proceeds of this fund shall be available for payments under subsections (f) and (g) of section 8, under subsection (b) of section 18 and under subsection (c) of section 39: Provided, That payments authorized by subsection (f) shall have priority over other payments authorized from the fund.*

(2) All amounts collected as fines and penalties under the provisions of this Act shall be paid into such fund.

* * * * * * *

O

UNIVERSITY OF MICHIGAN LIBRARIES

Calendar No. 862

84TH CONGRESS, 1st Session | SENATE | REPORT No. 854

FAVORING RESTORATION OF SOVEREIGN RIGHTS OF SELF-GOVERNMENT TO ENSLAVED PEOPLES OF EUROPE AND ASIA

JULY 13, 1955.—Ordered to be printed

Mr. GREEN, from the Committee on Foreign Relations, submitted the following

REPORT

[To accompany S. Res. 127]

The Committee on Foreign Relations, having had under consideration Senate Resolution 127, favoring restoration of sovereign rights of self-government to enslaved peoples of Europe and Asia, report the resolution favorably to the Senate and recommend that it do pass.

COMMITTEE ACTION

The committee had before it two related resolutions both of which had been introduced on July 11, 1955, Senate Resolution 126 introduced by Senator McCarthy, and Senate Resolution 127 introduced by Senator Knowland (together with Senators Clements, George, and Wiley).

On July 13, Senator McCarthy appeared in executive session and urged adoption of Senate Resolution 126 which related to the withdrawal of diplomatic recognition from certain Communist-dominated governments. The committee considered the resolution carefully and on July 13 voted 13–0 to table it.

On July 12, Senator Knowland testified in executive session in support of Senate Resolution 127. The committee considered this also carefully and on July 13 voted 14–0 to report it favorably to the Senate.

TEXT OF THE RESOLUTION

RESOLUTION

Whereas millions of people in Europe and Asia are living in subjection to a totalitarian imperialism; and

Whereas the domination of free peoples by an aggressive despotism increases the threat against the security of all remaining free peoples, including our own; and

Whereas the people of the United States cherish a heritage and tradition of freedom and self-determination; and

Whereas it is appropriate that the Congress give expression to the desires and hopes of the people of the United States: Therefore be it

Resolved, That the Senate proclaim the hope that the peoples who have been subjected to the captivity of alien despotisms shall again enjoy the right of self-determination within a framework which will sustain peace; that they shall again have the right to choose the form of government under which they will live, and that the sovereign rights of self-government shall be restored to them all in accordance with the pledge of the Atlantic Charter.

PURPOSE OF THE RESOLUTION

It is the purpose of this resolution to reaffirm Senate support of one of the fundamental principles contained in the Atlantic Charter of 1941. That document proclaimed "the right of all peoples to choose the form of government under which they will live." This resolution expresses the sense of the Senate and does not call for any particular action on the part of the United States Government.

EXECUTIVE BRANCH SUPPORT

The Department of State supported favorable action on Senate Resolution 127 in the following letter from Assistant Secretary of State Thruston B. Morton addressed to Senator George.

DEPARTMENT OF STATE,
Washington, July 12, 1955.

Hon. WALTER F. GEORGE,
United States Senate.

DEAR SENATOR GEORGE: In response to your request for the comments of the Department of State on Senate Resolution 127 concerning the captive peoples in Europe and Asia, the text of which is enclosed, I take pleasure in advising that the substance of that resolution is consistent with the position which has frequently been set forth by the President and the Secretary of State and, accordingly, the Department perceives no objection thereto from the standpoint of foreign policy.

Sincerely yours,

THRUSTON B. MORTON, *Assistant Secretary.*

COMMITTEE RECOMMENDATION

On numerous occasions in the past the Senate has gone on record with respect to the situation of peoples subjected to alien despotism against their will. This past action has been in recognition of the fact that the people of this Nation have long cherished a tradition and heritage of freedom. They deplore the existence of conditions in the world which have interfered, temporarily, with the right of peoples to determine for themselves the form of government under which they will live. The committee does not believe that the continued subjection of formerly independent peoples to the domination of alien despotism is conducive to world peace.

UNIVERSITY OF MICHIGAN LIBRARIES

The President of the United States has sought to promote conditions in the world which will encourage the expectations of captive peoples that they will not be held in bondage forever. The committee supports the President in these endeavors and expresses the hope that these peoples may soon be able to choose the form of government under which they will live.

The committee believes the resolution is desirable because it will remind captive peoples, as well as the peoples of free nations, that manes aspiration toward self-government, although thwarted from time to time by forces not subject to his immediate control, cannot be denied forever. It recommends favorable action on this resolution.

○

UNIVERSITY OF MICHIGAN LIBRARIES

Calendar No. 863

84TH CONGRESS, 1st Session | SENATE | REPORT No. 855

OPPOSING COLONIALISM AND COMMUNIST IMPERIALISM

JULY 13, 1955.—Ordered to be printed

Mr. GREEN, from the Committee on Foreign Relations, submitted the following

REPORT

[To accompany H. Con. Res. 149]

The Committee on Foreign Relations, having had under consideration the concurrent resolution (H. Con. Res. 149) expressing the sense of the Congress that the United States in its international relations should maintain its traditional policy in opposition to colonialism and Communist imperialism, reports the concurrent resolution favorably with an amendment and recommends that it do pass.

1. MAIN PURPOSE OF THE RESOLUTION

The main purpose of the resolution is to restate the traditional policy of the United States in support of the efforts of other peoples "to achieve self-government or independence under circumstances which will enable them to assume an equal station among the free nations of the world."

2. BACKGROUND AND COMMITTEE ACTION

The concurrent resolution was introduced in the House May 21, 1955, by Representative John W. McCormack and was passed by the House June 23 by a vote of 367 to 0.

On July 13, the Committee on Foreign Relations heard testimony from Representative McCormack and considered the resolution in executive session. The committee agreed to an amendment to delete the reference to membership in the United Nations and in other international organizations, and then ordered the resolution favorably reported by a vote of 13 to 1.

As it passed the House, the resolution expressed the sense of Congress that—

the United States should administer its foreign policies and programs and exercise its influence *through its membership in the United Nations and in other international*

organizations so as to support other peoples in their efforts to achieve self-government or independence under circumstances which will enable them to assume an equal station among the free nations of the world. [Italics supplied.]

The committee amendment deleted the phrase in italics in the foregoing paragraph.

The effect of the amendment is to express the sense that American influence to the stated ends should be exercised generally and not solely or particularly through the United Nations and other international organizations. The committee felt that it was preferable to couch the resolution in general terms so as not to give special emphasis to any particular means of accomplishing the objective which is sought.

3. JUSTIFICATION FOR THE RESOLUTION

The resolution does no more than restate the traditional foreign policy of the United States, a country which itself emerged from colonial status to "assume an equal station among the free nations of the world" only after a long and difficult war. The United States quickly recognized the independence of the Latin American Republics when those nations severed their ties with Europe. Moreover, our Government was directly responsible for the independence of Cuba and the Philippines, and has played a role in establishing the independence of such other nations as Panama, Indonesia, Vietnam, Laos, Cambodia, and Libya.

In the Pacific Charter of September 8, 1954, the United States joined seven Asian and European nations in declaring that—

> they * * * will earnestly strive by every peaceful means to promote self-government and to secure the independence of all countries whose peoples desire it and are able to undertake its responsibilities

Further, in the Mutual Security Act of 1955 it is declared to be the sense of Congress—

> that assistance under this Act shall be administered so as to assist other peoples in their efforts to achieve self-government or independence under circumstances which will enable them to assume an equal station among the free nations of the world and to fulfill their responsibilities for self-government or independence.

The urge for independence, and the tide of anticolonial feeling which is now running in many parts of the world, is as strong as that which swept the Western World in the late 18th and early 19th centuries, and which in fact was sparked by the American Revolution. Communist propaganda, however, constantly attempts to create the impression that the United States is an imperialist power and that the only true anticolonial power is the Soviet Union. The truth, of course, is precisely the opposite, as is plainly demonstrated by the record of the United States in promoting independence and the record of the Soviet Union in subverting it.

In the circumstances, therefore, it seems to the committee particularly appropriate at this time for the Congress to emphasize once again this traditional American policy. The resolution is, in essence, a reaffirmation of the principles of the Declaration of Independence, a document which, it should be recalled, was described by Abraham Lincoln as meaning "liberty, not alone to the people of this country, but hope for the world, for all future time."

O

UNIVERSITY OF MICHIGAN LIBRARIES